

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 19, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 19, 2004, at 12:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Morris K. Dunlap, Vice-Chair; James Barfield; Bud Hentzen; John W. McKay Jr.; Bill Johnson (In @ 12:36); Elizabeth Bishop (In @12:33); M.S. Mitchell; Ed Sunquist; David Wells; Frank Garofalo; and Bob Hernandez. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

1. Election of Metropolitan Area Planning Commission Vice-Chair.

MOTION: Nominate Morris K. Dunlap for MAPC Vice Chair.

HENTZEN moved, **HERNANDEZ** seconded the motion, and it carried (9-0).

2. Update of Employment and Population Projections for the Comprehensive Plan, presentation by Janet Harrah from WSU.

Introduction by Jamsheed Mehta, Chief Planner - The Wichita-Sedgwick County Metropolitan Area Planning Department (MAPD) has contracted with the Center for Economic Development and Business Research (CEDBR) to update the report entitled Population and Employment Forecast, Sedgwick County, Kansas, 2000-2030, which was researched and written in 1997. This updated report is presented as an addendum to that original document. MAPD staff utilizes various tools to plan for future infrastructure and land use policy. By applying a proven methodology, observing historical patterns and taking into account current world events, the CEDBR has recalculated reasonable population, labor force, and employment estimates through year 2030 that will be used in the metropolitan planning process.

JANET HARRAH, Director of the Center for Economic Development and Business Research at the Wichita State University – Presentation.

BISHOP When you say the biggest unknown is net migration, I am assuming it is called net because it is in migration and out migration?

HARRAH Yes. As you would expect when the aircraft companies are hiring our net migration goes up. When they have layoffs our net migration goes down. So migration is very much tied to employment. It is very hard to forecast.

BISHOP How does McConnell AFB factor into that?

HARRAH We only looked at civilian labor force. But from a population standpoint they are here and in and out a lot, but the net numbers will not change that much over time.

BISHOP There is an ancillary labor force with military.

HARRAH Typically one transfers out and then one will transfer in, so the net is about the same.

HERNANDEZ If your projection for a low labor supply, that probably means this area is going to have to pay higher wages?

HARRAH Yes, you would have to compete for labor and typically you would have to pay higher wages.

HERNANDEZ Have you put any idea or solution on how to increase the labor supply?

HARRAH If you have good high paying jobs you can compete for people that are willing to move and work in Wichita. Another key is to keep more of our young people here.

DUNLAP How do we rank to U.S. in general in shortness of labor?

HARRAH Most national economies are predicting severe labor shortages nation wide. Because the aging of the population trend is true for the entire U.S. Some cities are at competitive advantage because they are the doors to the U.S. that receive the immigrants from around the world so they will get the new population and have a better chance of keeping it. But the aging of the population and the slowing of the population is a nation wide problem.

DUNLAP In order to have good jobs, we have to have companies here. What is happening with the population of companies, is it migrating also from the gateway cities out into the lands out here or is it pretty stable?

HARRAH What you are seeing companies do is move some of their production capacities overseas in markets where they feel labor supply will not be a problem. There are two factors for companies moving companies overseas and part of it is labor cost but companies are taking a look at these demographic numbers and they see the handwriting on the walls to and their concern is if we have to compete for all this labor, our labor cost is going to soar, so we want to insure that we have manufacturing capacity off-shore where the population is growing fast enough to ensure adequate labor supply.

DUNLAP We recently had KOCH move their headquarters here, is that kind of a move a trend to move people away from the metropolitan areas into the smaller areas or is there not a trend like that?

HARRAH No. That is just a case that KOCH had a presence here. But there is no trend that I am aware of.

MARNELL Would you expand on the demand side of this thing, the real source of that? Because the demand seems to be where we are coming up with the gap.

HARRAH What we did, we took non-farm wage and salary employment which is collected through a survey of employers every month and it is a pretty good measure of total employment and to that we added estimates to farm employment. We had known wage and salary employment data since 1969 and looked at what the increase of demand or employment over the last business cycle which was between 1991 and 2001. We repeated that same growth pattern over the next 30 years and that is where that employment curve came from.

MARNELL It seems the population numbers would be the plainest purest number and then from that you can age that population and groups going forward and have pretty good trends from that. It seems like the wildcard is the demand.

HARRAH Most demographics forecast are going to be accurate within plus or minus 3% over a 10 year horizon plus or minus 5% over 30 year horizon. Employment forecast they are thrilled if they get plus or minus 3% every year because the economy is much more volatile then our demographic trends. So you are right the most unknown in here is the demand for labor.

MARNELL If the demand itself is off how far off does that have to be before it then comes back and becomes the effect on the population? Because it would stop migration and it might in fact reverse it.

HARRAH If you look at the size of the gap you would have to have significant changes in our demand for labor then what we have seen to close that gap.

SUNQUIST You are basically talking about a retirement community with that number of age of individuals in the communities is the labor force going to be more toward services rather than manufacturing?

HARRAH We have already seen that trend, yes. The other big unknown is labor force participation rates that are being forecasted by the federal government they don't show much change over time in the labor force participation rate of those that are over 65. But a lot of people that feel like the population is getting healthier and living longer that there will be a higher percentage of people working after the age of 65 so that is a potential to narrow that gap to if that does occur.

BISHOP I am familiar with the pyramid with what we use to call the social security pyramid how does that ratio of younger to older persons play out here in Wichita is that also similar across the country?

HARRAH What you are seeing across the country is that pyramid is getting more rectangular. It is more rectangular in some areas than others. Kansas is an older population than the nation as a whole. We are approaching 20-25% as we go forward.

3. Approval of February 5, 2004 MAPC meeting minutes.

MOTION: That the minutes for February 5, 2004 be approved.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (10-0-1). **BISHOP** abstained.

4. Consideration of Subdivision Committee recommendations

4-1. SUB2003-149- Final Portion of an Overall Preliminary Plat - AVALON PARK THIRD ADDITION, located on the east side of Tyler Road, north of 37th Street North.

(MAPC deferred 1-22-04)

NOTE: This is a replat of a portion of the Arbor Lakes Baptist Church Addition.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **An off-site utility easement is needed for Lot 4 for connection to sewer or in the alternative a guarantee for a sewer extension.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 1-3. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- E. The minimum building pad elevations referenced in the plat's text need to be denoted.
- F. The reference to "commercial lots" in the drainage note needs to be corrected.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC requests additional easements.**
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL, Planning Staff You may recall for this plat we had KDOT at our last meeting, and they explained to us that right-of-way will be required for the north portion of this plat to preserve the corridor for the construction of the Northwest Bypass connecting K-96 to US54. They mentioned to us that their preliminary review indicated a need for 100 feet of right-of-way from the north boundary of this plat. They also explained that they were in the design phase to identify and purchase the required right-of-way. There have been two meetings between KDOT and WCC since our last MAPC meeting regarding KDOT's preferred alignment for the Northwest Bypass, although they were not specific to this plat. City Public Works Department has discussed a right-of-way acquisition with the applicant, and further negotiations need to occur. We have been informed that KDOT will be contacting the applicant in the near future regarding the right-of-way acquisition.

CHRIS CARRIER, reviews the following letter with the Planning Commission.

TO:

FROM:

SUBJECT:

DATE: February 13, 2004

This subdivision was presented before the Metropolitan Area Planning Commission (MAPC) at its January 28, 2004 meeting. At that time, Mr. Corky Armstrong, Kansas Department of Transportation, Topeka, appeared before you and indicated that the northern most part of this plat was in an area that was being looked at as the corridor for the proposed northwest bypass. Because of this, you decided to defer further consideration of this plat until your meeting on February 19, 2004. The purpose of this memo is to provide the MAPC with some additional information concerning the northwest bypass corridor that has become available since your last meeting.

On Wednesday, January 28, 2004, representatives from the Kansas Department of Transportation met with City Council and Board of County Commission representatives and presented their "preferred" alignment for the northwest bypass. After much discussion, the County Commission representatives indicated that they had no problems with the alignment. City representatives, however, did express some concerns about the alignment and its impact on the city's plans to construct storm water detention on Dry Creek near 167th Street West. There were also some concerns expressed about the impact that the project might have on the operation of the city's new Northwest Sewage Treatment facility. For these reasons, the city was not yet in a position to endorse the preferred corridor as presented by KDOT.

Subsequent to the meeting, city staff worked with its consultants and determined that although the preferred alignment would result in modifications to the Dry Creek detention plan, it does appear that the plan is still workable with this highway alignment providing that certain details can be worked out with the KDOT staff while design is progressing. Likewise, the concerns about the northwest treatment facility can probably also be worked out in the design phase of the project.

On, February 6, 2004, Kansas Transportation Secretary Deb Miller met with representatives of the City Council and County Commission and others to discuss the Northwest Bypass project and the preferred corridor location. Secretary Miller stressed the importance of KDOT and the local governments working together to preserve the proposed corridor in light of the development proposals we are starting to see in this area. She indicated, except that possibly in hardship cases, it will probably not be possible to acquire large amounts of the necessary right-of-way until after the environmental clearance is obtained, which is estimated to be sometime in mid-2006. Until then, she urged that the city and county work together to preserve the corridor, possibly by the implementation of a moratorium on development within the corridor itself. The city and county both indicated that we would have our legal council look into the legal aspects of such a moratorium.

On Friday, February 13, 2004, I received a telephone call from Mr. Corkey Armstrong, KDOT, advising that they had funds that could be used for the acquisition of right-of-way in hardship cases in the corridor area. They were particularly interested in beginning negotiations with Mr. Marvin Schellenberg concerning land that would lie within his proposed Avalon Park 3rd. From my conversation with Mr. Armstrong, it is apparent that they will be contacting Mr. Schellenberg in the near future concerning the acquisition of right-of-way.

For the above reasons, I recommend to you that you either defer action on this plat pending the acquisition of the right-of-way or request that the applicant reconfigure the plat to be consistent with what KDOT indicates they will want to acquire, which is a 100-foot wide strip of ground along the north edge of this plat. If Mr. Schellenberg wishes to reserve a wider strip in hopes that he can convince KDOT to purchase it and provide a buffer for his subdivision, then it would be up to him to make that decision and plat the property accordingly.

If you have any questions concerning the above, please let know.

Cc: John Schlegel, Director of Planning
Jamsheed Mehta, MAPD
Cathy Holdeman, Interim City Manager
Bill Buchanan, County Manager
David Spears, Sg. Co. Director of Public Works

BARFIELD Mr. Carrier, you say that you are not going to take a position, but in this information here you recommend that we defer action on this plat pending the acquisition of the right-of-way or request that the applicant reconfigure the plat.

CARRIER That is what the State would like to see us do if we are interested in preserving this corridor. Those are two options; there are probably more options.

BARFIELD Has the KDOT project been budgeted already?

CARRIER No. I have been told that there is money available for emergency or hardship right-of-way acquisitions. I got a call from Corky Armstrong last Monday who said they would approach the applicant about purchasing what they needed to purchase in the north part of this subdivision. The County and the City have talked, and have decided that we want KDOT to take the lead in acquiring all of the right-of-way for this project. That is not something we want to get in the middle of. I have been told that they have money for that, and that this particular instance would be considered one of their hardship cases, and that they would be in contact with the applicant.

MITCHELL Mr. Carrier, paragraphs two and three of your letter make reference to the 167th Street West conflict between your idea of where the detention facility should be, and were KDOT has their 1,000-foot corridor set out. Has that been resolved yet?

CARRIER We have asked our consultants that initially picked that area for a detention facility to look at it in light of KDOT's proposal, and see if we can still make a facility work there, and their answer was yes. Now, it is going to take working with KDOT staff to make that happen. At WCC on March 2nd we will have a resolution in front of the WCC for their consideration recommending or supporting KDOT's preferred alignment, and approving that alignment provided that their staff will work with our staff on any problems with the Northwest Treatment Facility, and they work out any problems on this Dry Creek Flood control business.

MITCHELL Does that mean there will be a compromise in the two locations or that you find a way to work with KDOT's location?

CARRIER I think we can find a way to work with KDOT's location. Again, at this point we are dealing with a 1,000-foot wide corridor, and it can go anywhere in that 1,000 feet, and we have ideas about where we would like to see it in that 1,000 feet. I don't know what their final decision is going to be. We looked at the worst case scenario for us, and we feel we can still make that work.

ROB HARTMAN, PEC We filed this plat in January 2000 which encompassed the entire area shown on the map here. At that time, we were asked to defer the north half of this property until some negotiations could be worked out with KDOT. Since then we have gone ahead with the development of the south half and platted it; and we have finished the design of the first phase of the development. We are now going into the second phase of design on that portion. Since January 30th 2003, the landowner here has met with Mr. Lackey, I think in February last year, to talk about the negotiations on the KDOT right-of-way; and at that time KDOT did not have any defined plans, and it seems like they are still not ready. It looks like it may be mid-2006 before something is finalized.

The applicant would like to go ahead with this plat, and we feel that we have met all of the technical requirements that the Planning Department has asked us to meet. In good faith we have delayed this for over a year, and we feel that it is time to move on, and go ahead and get this portion of the plat finished; and if by the time we get to the north end of this development KDOT comes ahead and can negotiate a price for the right-of-way, we will be willing to design our plat to accommodate that.

MITCHELL What would be the effect of taking out the north 100 feet of this entire strip on the plat that you already have filed and prepared to file?

HARTMAN It would mean a re-plat no matter what we do with it. Any additional right-of-way on the north half will require a re-plat. We feel we have a good design at this point, and if we have to come back and KDOT does purchase the right-of-way, we know we will have to re-plat it then; and if it doesn't happen then we won't have to go back, we can still continue our marketing efforts and we don't have to back track.

MITCHELL What would a delay until after the Wichita City Council meeting on March 2, 2004 do to you?

HARTMAN I am not sure. I don't know what would be the harm to go ahead and approve it the way that it is.

MCKAY In your marketing of this portion of the plat, it is the second phase of the one to the south, correct? The subject area that we are talking about is the plat to the south?

HARTMAN The marketing would affect the entire area. The areas north of the south half as well as the south half. He could market both halves at once rather than just the south half, and come back and spend money to market the north half.

MCKAY What is your anticipated time schedule on this piece of property?

HARTMAN The north half? If we continue as we have, we are in the second phase of the south half; and probably in another year we will be completed with that, so I would say within a year we will be starting on the north half.

MCKAY How long have you be working on the south half?

HARTMAN Probably 6-9 months.

MARNELL In the preliminary layout of streets and infrastructure for that north area are you working with two looks at it? One if the right-of-way goes through and one if it doesn't?

HARTMAN Not at this point. We have done some concept drawings when we first met with Steve Lackey about a year ago, and looked at it if there was a KDOT right-of-way up there; but that is as far as we have gone with it.

MARNELL At this time, progressing as far along as it is, what I would hate to see is infrastructure put in up there. I would assume that would not be houses; and then just have to rip them out and add that much more to the cost of the right-of-way. Can this not be put in phases in some fashion?

HARTMAN Yes, we will be phase it from the south to the north just as we have the south half which is basically broke into four phases and we are just on phase two now.

MOTION: Defer this plat until after the WCC has had an opportunity to make a decision on whether to proceed with acquisition of right-of-way as recommended by KDOT.

MITCHELL moved.

SCHLEGEL The action that Mr. Carrier was describing earlier that is going to WCC on March 2nd will be the question whether or not they support the so-called preferred alignment that KDOT is showing for this highway. The question whether to proceed with acquisition of the right-of-way at this stage is a KDOT question. The City is assuming that is their responsibility and they will act on that.

MITCHELL But if the City doesn't accept this as the preferred alignment then we have a completely different aspect if we do. If the City decides to accept the recommendation on the alignment and supports KDOT's early acquisition or emergency acquisition, that could be a accomplished rather quickly.

SCHLEGEL What we heard from KDOT was that they are going to proceed with emergency early acquisition where it is needed, such as in this case, based on their decision; and they don't need the support of the WCC to do that. What they had told Mr. Carrier was that they are going to contact this applicant to see whether or not he would be a willing seller at this stage. It is obvious that they can't proceed with a condemnation at this stage because they don't have a project yet to allow them to go and condemn the right-of-way, but they can proceed with the negotiated sale as long as there is a willing seller.

I was just trying to disconnect your action today from the WCC action which is pending in March because that action is simply to communicate with KDOT whether or not the City has any disagreements with the so-called "preferred" alignment.

MITCHELL I still think that is a necessary action to re-enforce the State's early acquisition.

MOTION: Dies lack of second.

BISHOP I assume that this plat will go to the WCC and BOCC?

SCHLEGEL This will require City Council action only.

MOTION: Defer 60 days to give the State and the applicant an opportunity to sit down and negotiate and this item will be brought back to MAPC in 60 days.

MCKAY moved, **SUNQUIST** seconded the motion.

DUNLAP We don't control what the State is going to do. Are you going to put something in that motion to encourage them to make that contact?

MCKAY They said they are ready to act and the owner is waiting for them to act and if they can't act in 60 days then we bring it back in 60 days and approve it.

DUNLAP They haven't acted in a year already.

MCKAY I look at it in this standpoint. If we approved it today, then by the time they got through there in the middle or end of the year and until they got anything done, they are looking at a six month different time table as far as when the State said they were actually going to do the stuff.

MOTION CARRIED: 10-1 BISHOP opposed.

4-2. **SUB2003-139– Final Plat – BRENTWOOD SOUTH SECOND ADDITION, located on the north side of Pawnee and east of Webb Road.**

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The applicant requests a zone change from SF-20, Single-Family Residential to TF-3, Two-Family and LC, Limited Commercial.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering advises that additional drainage easements may be needed based upon applicant's drainage plan.**
- E. **County Engineering** has requested a guarantee for right and left turns into the commercial lot based on need.
- F. The plat proposes one access opening along Pawnee. **The access controls are approved.**
- G. The Applicant shall guarantee the paving of the proposed streets.
- H. The commercial lot needs to be relabeled since Lot 1, Block A has been designated for a residential lot.
- I. The plat's text shall include reference to "a block" in the owner's certificate.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8

of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov) . This will be used by the City and County GIS Department.

MOTION: Approve, subject to staff comments and citing the findings in their report.

MITCHELL moved, **SUNQUIST** seconded the motion, and it carried (11-0).

4-3. SUB2004-11- One-Step Final Plat – PRAIRIE VILLA AT BEACON HILLS ADDITION, located east of Oliver, north of 21st Street North.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2003-57) from SF-5, Single-Family Residential to TF-3, Two-Family Residential.

STAFF COMMENTS:

- A. Sanitary sewer is available to serve the site. The applicant shall guarantee the extension of City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has requested a drainage easement.**
- D. **City Fire Department** needs to comment on the need for a turnaround. **In lieu of a public right-of-way turnaround, a private drive circulation system is required with a 20-ft paved surface, 35-ft radius turnarounds or as approved by City Fire Department; and a 29-ft roadway at the entrance.**
- E. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- F. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

BISHOP I have a concern about that much development being land locked with only one entrance and exit with one way in and one way out and traffic will have to go through the rest of the residential neighborhood. The recommendation was that they attempt to work that out and there was encouraging language for them to work that out but it was not a requirement.

MOTION: Approve.

JOHNSON moved, **SUNQUIST** seconded the motion, and it carried (10-1). BISHOP opposed.

❖ **PUBLIC HEARING — VACATION ITEMS**

5-1. VAC2003-53 – Request to Vacate a Portion of Dedicated Right-of-Way

<u>APPLICANT:</u>	Rusty Eck Ford
<u>AGENT:</u>	AM Consulting c/o Tim Austin & Kim Edgington
<u>LEGAL DESCRIPTION:</u>	See attached legal
<u>LOCATION:</u>	North of Kellogg Avenue along the west sides of the Armour Drive & Whitter Road ROWs and along the south side of the Willowbrook Street ROW.
<u>REASON FOR REQUEST:</u>	Additional land needed for development
<u>CURRENT ZONING:</u>	"LC" Limited Commercial zoning abutting the east, north and a portion of the west sides, and a PUD Planned Unit Development abutting on the south and a portion of the west side.

The applicant is requesting the vacation of a portion of the ROWs of Armour Drive, Whitter Road and Willowbrook Street. Those portions range from a width of 4.25-feet to 5.47-feet and generally run along the east side of the Rusty Eck Ford Addition plat. The applicant has no reversion rights to the proposed vacated ROWs of Whitter Road and Willowbrook Street and the owners of the property/subdivisions where the dedication for those ROWs have not signed the application or the petition for vacation. Armour Drive was dedicated on the Rockwood South 3rd Addition, which was recorded with the Register of Deeds October 19, 1966; the applicant has reversion rights to this portion of ROW. Whitter Road and Willowbrook Street were dedicated on the Rockwood South 5th Addition, which was recorded with the Register of Deeds September 9, 1979; the applicant has no reversion rights to this portion of ROW. The applicant currently has a minor street permit for these sections of Whitter and Willowbrook ROW, which allows for vehicle parking and storage; there is no minor street permit along the Armour ROW.

Staff advises all applicants of the rights of reversion and access when inquires are made for vacation of public ROW. Staff advises all applicants to secure the signatures of those property owners who have reversion and access rights to public ROW, where possible vacation actions are being explored. If these signatures have not been secured, the request to vacate cannot go to the WCC for final action. Until they have been secured; no vacation of ROW is the result.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted ROWs as described in the legal description, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time January 29, 2004 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted ROWs and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted ROWs described in the petition should be approved with conditions:
- A. There are both public and franchise utilities in the ROW; retain the ROW as easement
 - B. Location of a bike path must be determined in relation to the proposed vacated ROWs prior to the vacation request going to the WCC for final action.
 - C. Signatures of the property owners who have reversion rights to the proposed vacated ROWs must be present to the Planning Staff on the application and the petition prior to the vacation request going to the WCC for final action.
 - D. There is a PUD overlay on the applicant's property, any adjustments or amendments to the PUD that are brought about by the proposed use of the vacated ROW must be approved prior to the vacation request going to the WCC for final action.
 - E. Provide cross lot access agreement for property owner who has reversion rights of a portion of the proposed vacated ROW.
 - F. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - G. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- A. There are both public and franchise utilities in the ROW; retain the ROW as easement
- B. Location of a bike path must be determined in relation to the proposed vacated ROWs prior to the vacation request going to the WCC for final action.
- C. Signatures of the property owners who have reversion rights to the proposed vacated ROWs must be present to the Planning Staff on the application and the petition prior to the vacation request going to the WCC for final action.
- D. There is a PUD overlay on the applicant's property, any adjustments or amendments to the PUD that are brought about by the proposed use of the vacated ROW must be approved prior to the vacation request going to the WCC for final action.
- E. Provide cross lot access agreement for property owner who has reversion rights of a portion of the proposed vacated ROW.
- F. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- G. All improvements shall be according to City Standards.

BARFIELD Have you determined whether or not this can proceed in stages? Or do all of the reversion rights have to be signed first?

LONGNECKER We can proceed with those portions that the applicant has reversion rights on. The case can proceed to the WCC as long as they have met the all of the conditions. All the owners of those properties that made the dedication for the right-of-way must have their signatures on the petition and the application. Staff always advises applicants of that condition, and that if the signatures have not been secured, then the vacation request is not going...will not proceed to Council for final action. As far as making this a two phase process, vacate that portion of ROW that the applicant has reversion rights, then latter at some undetermined time vacating the portion of the ROW they do not have reversion rights to, staff has been advised that the applicant would have to reapply for that portion of the right-of-way where they do not have reversion rights, and that would be presented to the MAPC as a separate case.

MARNELL Can you point out what portion the applicant has reversion rights for, and what they do not?

LONGNECKER The applicant has reversion rights along the Armour street right-of-way, and the applicant has reversion rights on a portion of the Willowbrook and the Whitter right-of-way. I'm not sure of that portion right now, because I need a legal description and an exhibit to show me clearly where that is, which I have not been supplied with.

MARNELL It is incumbent on the applicant to obtain those signatures from the holders of those rights?
LONGNECKER Correct.

MARNELL That would not be a major concern for us?

LONGNECKER No sir, again staff advises the applicants of the reversion and access rights, and the requirements of those. Final action on this request by Council would not occur until that happens.

BISHOP Do you have an aerial of that area? Where it says Armour, is that actually the ditch, the drainage way that goes through there?

LONGNECKER This is the drainage way that proceeds along Armour and the bike path is adjacent to this drainage.

BISHOP It is kind of along the west side of it?

LONGNECKER Yes.

BISHOP So the location of the bike path is going to be determined primarily by what changes are made to Kellogg?

LONGNECKER The location of the bike path is not going to be affected by this vacation case.

MOTION: Approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (11-0).

MCKAY Does the applicant have anything to say about this?

TIM AUSTIN, AM Consulting We are in agreement with staff comments and conditions.

5-2. **VAC2004-02 – Request to Vacate a Platted Ten-Foot Utility Easement**

<u>OWNER/APPLICANT:</u>	Ronald D Ryan Living Trust c/o Ronald D Ryan
<u>AGENT:</u>	MKEC c/o Brian Lindebak
<u>LEGAL DESCRIPTION:</u>	The platted 10-foot utility easement that runs parallel to the property line between Lots 21 & 22, Block 6, Hawthorne Addition, Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located east of 127 th Street East, on the north side of 21 st Street North, more specifically northeast of the Rosemont Circle – Williamsgate intersection, 2215 & 2303 North Rosemont Circle
<u>REASON FOR REQUEST:</u>	Boundary Shift
<u>CURRENT ZONING:</u>	Subject property and all adjoining properties are zoned "SF-5" Single Family Residential.

The applicant is requesting consideration for the vacation of a platted 10-foot utility easement, which runs parallel to the property line between Lots 21 & 22, Block 6, Hawthorne Addition. Boundary shift combines Lots 21 & 22 into one lot. There are no sewer or water lines in the platted easement. The applicant has recorded a replacement easement (film 2836, page 1032) that runs parallel to Lot 21's north property line. The Hawthorne Addition was recorded with the Register of Deeds December 12, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easement as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time January 29, 2004 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted utility easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted easement described in the petition should be approved with conditions:

- (1) Vacate the 10-foot platted easement which runs between the property line of Lots 21 & 22, Block 6, Hawthorne Addition, stopping at its point of intersection with the platted 10-foot utility easement as recorded on Lots 21 & 22, Block 6, Hawthorne Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the 10-foot platted easement which runs between the property line of Lots 21 & 22, Block 6, Hawthorne Addition, stopping at its point of intersection with the platted 10-foot utility easement as recorded on Lots 21 & 22, Block 6, Hawthorne Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

MOTION: Approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (11-0).

5-3. VAC2004-03 – Request to Vacate Utility Easements.

OWNER/APPLICANT: Airtech Enterprises, Inc

AGENT: Ruggles & Bohm, PA c/o Chris Bohm

LEGAL DESCRIPTION: The platted 10-foot utility easement that runs parallel to the property line between Lots 12 & 13, Block 3, Springdale East 2nd Addition, Wichita, Sedgwick County, Kansas.

The platted 10-foot utility easement that runs parallel to the property line between Lots 7 & 8, Block 1, Springdale East 2nd Addition, Wichita, Sedgwick County, Kansas.

The platted 10-foot utility easement that runs parallel to the property line between Lots 3 & 4, Block 2, Springdale East 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of Kellogg and east of 143rd Street East, along Cactus Street & Lakeview Drive.

REASON FOR REQUEST: Multiple lot splits creating more and new lots

CURRENT ZONING: Subject properties and south, east and west adjoining properties are zoned "SF-5" Single Family Residential, property north of subject properties is zoned "SF-20"

The applicant is requesting the vacation of platted 10-foot utility easements, which runs parallel to the property line between Lots 12 & 13, Block 3, Lots 7 & 8, Block 1 and Lots 3 & 4, Block 2, Springdale East 2nd Addition. Multiple lot splits will reconfigure the existing 14 lots into 18 lots. There are no sewer or water lines in the platted easement. The Springdale East 2nd Addition was recorded with the Register of Deeds October 12, 1980.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easements as described in the legal description with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time January 29, 2004 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described platted utility easements and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted easements described in the petition should be approved with conditions:

1. Vacate the 10-foot platted easements which run between the property lines of Lots 12 & 13, Block 3, Lots 7 & 8, Block 1 and Lots 3 & 4, Block 2, Springdale East Addition, stopping at their points of intersection with the platted 20-foot utility easement that's runs parallel to the north property lines of Lot 7 & 8, Block 1, the platted 20-foot utility easement that's runs parallel to the east property lines of Lot 12 & 13, Block 3 and the 10-foot portion of the platted 20-foot utility easement and the 10-foot drainage easement dedicated by separate instrument (film 2632, page 77) that's runs parallel to the south property lines of Lot 3 & 4, Block 2, Springdale East 2nd Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the 10-foot platted easements which run between the property lines of Lots 12 & 13, Block 3, Lots 7 & 8, Block 1 and Lots 3 & 4, Block 2, Springdale East Addition, stopping at their points of intersection with the platted 20-foot utility easement that's runs parallel to the north property lines of Lot 7 & 8, Block 1, the platted 20-foot utility easement that's runs parallel to the east property lines of Lot 12 & 13, Block 3 and the 10-foot portion of the platted 20-foot utility easement and the 10-foot drainage easement dedicated by separate instrument (film 2632, page 77) that's runs parallel to the south property lines of Lot 3 & 4, Block 2, Springdale East 2nd Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

MOTION: Approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARING — ZONING ITEMS**

6. **Case No.: ZON2003-69** – William R. Watson (owner); Ferris Consulting, c/o Greg Ferris (agent) Request Zone change from "SF-5" Single-family Residential and "GO" General Office to "NR" Neighborhood Retail

Lot 1, Block B, Central Bank & Trust Addition to Wichita, Sedgwick County, Kansas. Generally located On the southeast corner of Central and Vassar

CITY OF WICHITA
METROPOLITAN AREA PLANNING DEPARTMENT

TO: Metropolitan Area Planning Commission
FROM: Donna Goltry, Principal Planner, Current Plans
DATE: February 13, 2004
SUBJECT: ZON2003-00069, Request to rezone property from "GO" General Office and "SF-5" Single-family to "NR" Neighborhood Retail on property located at the southeast corner of Central and Vassar

Attached to this memo is the staff report that was prepared and distributed to the District II Advisory Board for review on February 2, 2004. After distribution of the staff report, the applicant revised the request to reduce the zone change from "LC" Limited Commercial to "NR" Neighborhood Retail. This change is highlight in the staff report.

The "NR" request was discussed at the District II Advisory Board meeting held February 2, 2004. The recommended action of the DAB was to deny "NR" and but allow "GO" subject to the same type of protective overlay provisions as the property to the north received in a recent rezoning.

Since the DAB meeting, a neighborhood meeting was held where the proposed "NR" was again discussed. At the College Hill Neighborhood meeting held February 10, 2004, the agent for the applicant presented an alternative of opening a driveway aligned with Vassar north of Central as the fourth leg of the signalized intersection. Also, staff raised the possibility of using a one-way

traffic pattern around the existing building on the adjoining lot (under the same ownership) to divert left-turn movements to the easternmost driveway on the adjoining "GO" lot.

Discussions have been held between neighborhood representatives and the agent after the neighborhood meeting. The agent has offered further restrictions to "NR" use if the lots were developed with nonresidential use. These restrictions would include:

- Eliminate the following uses: bank or financial institution; group residence, limited; correctional placement residence; recycling collection station, private; wireless communication facility; all industrial and agricultural uses. Restrict retail, general by eliminating department stores and automotive parts and accessories.
- Provide a 30 foot building setback for nonresidential uses on the south property line and a 10 foot landscape buffer along the south property line; install a solid screening fence a minimum of six feet in height and plant trees at a rate of one tree per 20 feet along the south property line and the southern 100 feet of the west property line.
- Restrict freestanding signs to one monument type sign to no more than eight feet in height.
- Require nonresidential buildings to residential in architectural character and materials, including that metal shall not be used as exterior materials except for incidental accent or trim.
- These discussions did not focus on restricting lights and noise; the agent has indicated general support of restrictions to reduce this type of impact on the neighborhood.

While these restrictions lower the intensity of commercial use, they do not solve the overriding access problem of no left turns into or out of the property. The agent's suggested addition of a private driveway added as a fourth leg to the signalized intersection was reviewed by the Traffic Engineer and found to pose significant safety hazards: the median blocking traffic from jogging from Vassar north of Central to the offset Vassar on the south would be shortened. This would give several possible problems:

- First, the median that blocks traffic from jogging across Central at Vassar would be shortened. Southbound and westbound motorists would be able to sneak across Vassar and pose a traffic hazard to eastbound Central motorists.
- The additional driveway would be less than 20 feet from Vassar, which is significantly below any access management policies and be considered a potential hazard due to the very close proximity of accesses along Central where motorists are making multiple turning movements.
- The project might jeopardize the recent investments and redevelopment of the Central and Hillside. Wichita spent significant sums widening and improving traffic conditions at Central and Hillside last year. The traffic flow is already complex. The recent redevelopment at Wesley Medical Center and College Hill Square is a significant improvement in the community. Increasing the intensity of use for a single small parcel may negatively impact these other investments.

The Traffic Engineer has indicated the only way the proposed new driveway could safely function would be to make Vassar south of Central a cul-de-sac. This solution may help the property owner of the requested rezoning, but harms the neighborhood residents that currently use Vassar for right-turn access to their homes. The proposed cul-de-sac would need to be reviewed for input with the affected residents.

In addition, the cost to the applicant would perhaps exceed the value of the rezoning request. The costs would include: reconstruction of the median, modification and addition of traffic signalization equipment, and the cost of installing the cul-de-sac.

In other circumstances without these overriding traffic issues, the use of "NR" Neighborhood Retail is often an appropriate buffer type use to place between "LC" Limited Commercial and less intensive zoning districts such as "GO" General Office or residential use. However, because of the traffic safety and potential impact on the surrounding traffic flow considerations, staff recommendation remains as is in the original staff report for denial. The issues raised in this memo should be interpreted as additions to the findings in the original staff report.

BACKGROUND: The applicant is requesting to rezone a 0.59-acre tract from "SF-5" Single-family Residential and "GO" General Office to ~~"LC" Limited Commercial~~ "NR" Neighborhood Retail to allow commercial use, including restaurant with a drive-through window. The site is located on the southeast corner of Central and Vassar.

The surrounding property is zoned "GO" to the north and east, "TF-3" Twofamily Residential and "SF-5" Single-family Residential to the southeast, south and southwest, and "LC" and "GO" to the west. A bank is located on the property to the west. An office, owned by the same owner as this request for rezoning, is located to the east. A single-family residence is located across the street from this office and single-family residences abut the remaining portions of the requested rezoning to the southeast, south and southwest. The property north of Central was recently approved for rezoning from "TF-3" to "GO" subject to a protective overlay and is vacant. Several residential structures were demolished during the past six months. The Wesley Hospital complex and associated uses are located to the northwest.

CASE HISTORY: The property is platted as Central Bank and Trust Addition, recorded September 10, 1980. Central and Vassar have 20-foot platted setbacks.

A previous owner fought a lengthy zoning battle in 1979. The owner at the time, Central Bank and Trust, initially sought "LC" Limited Commercial zoning. Before the first public hearing on April 26, 1979, the request was revised to "BB", equivalent to today's "GO" General Office. The request was recommended (4-3) on May 24, 1979, returned by the Wichita Board of City Commissioners to be reheard and deferred on August 16, 1979 and recommended for approval on September 27, 1979, limited its use to a parking lot for the bank facility on the west side of Vassar. Many issues were discussed during the process. These included neighborhood opposition to business expansion southward from Central, the city's policy to allow business expansion along Central no farther east than Clifton, traffic concerns (with a large proportion of traffic on Rutan and Vassar being generated by the commercial uses on Central), the observation by neighbors that existing parking lots were never fully occupied and thus opposing the tearing down of homes for more parking.

The Wichita Board of City Commissioners approved rezoning of only the northern half of the property to "BB" on October 27, 1979, and the southern half remained zoned "AA" Single Family (equivalent to "SF-5"). The applicants then sought and received a Exception to establish an off-street parking lot on "AA" from the Wichita Board of Zoning Appeals on November 27, 1979. An inspection of aerial photography verifies that four homes were removed and the parking lot was paved on the "BB" and "AA" property between 1980 and 1983. Of the 62 spaces on the lot, no more than ten spaces were documented as occupied on the six aerial photographs taken between 1983 and 2000.

ADJACENT ZONING AND LAND USE:

NORTH: "GO"; "TF-3"	Vacant, offices
SOUTH: "SF-5"	Single-family residential
EAST: "GO"; "TF-3"; "SF-5"	Medical office, single-family residential
WEST: "GO"; "LC"	Bank, single-family residential

PUBLIC SERVICES: The site is located on the south side of Central, a four-lane principal arterial at a mid-mile location. Traffic counts on Central between Hillside & Bluff in 2001 were 16,955 vehicles per day (ADT). The 2030 projected volumes are 24,300 (projected ADT). The street alignment of Vassar is slightly offset north and south of Central. The intersection is channelized and signalized. Through traffic on Vassar is prevented from crossing Central. Additionally, left turns into or out of the proposed rezoning tract are prevented.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as appropriate for "office" (northern half) and "transportation" (southern half). The property to the east and south is shown as "office" and "low-density residential"; the property to the west is shown as "commercial".

RECOMMENDATION: The requested zone change to ~~"LC" Limited Commercial~~ ~~"NR" Neighborhood Retail~~ is not in conformance with the designation of office and transportation on the "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002. It is a requested change that was strongly opposed by neighborhood residents in 1979, and is still opposed today. Lack of left-turn access into or from the site means that all left-turns must travel through at least one city block and over and back up in order to enter the site for traffic from the east (southbound left on Clifton to 3rd Street North and then north on Vassar) and exit the site for westbound destinations (reverse flow of south on Vassar, then 3rd to Clifton or Rutan and back to Central). The routing of commercial traffic onto these residential streets is contrary to the Comprehensive Plan guidelines for commercial use.

Based on this information and the information available prior to the public hearing, staff recommends the request for ~~"LC" Limited Commercial~~ ~~"NR" Neighborhood Retail~~ be Denied.

This recommendation is based on the following findings:

- The zoning, uses and character of the neighborhood:** The surrounding property is zoned "GO" to the north and east, "TF-3" Two-family Residential and "SF-5" Single-family Residential to the southeast, south and southwest, and "LC" and "GO" to the west. A bank is located on the property to the west. An office, owned by the same owner as this request for rezoning, is located to the east. A single-family residence is located across the street from this office and single-family residences about the remaining portions of the requested rezoning to the southeast, south and southwest. The property north of Central was recently approved for rezoning from "TF-3" to "GO" subject to a protective overlay and is vacant. Several residential structures were demolished during the past six months. The Wesley Hospital complex and associated uses are located to the northwest.
- The suitability of the subject property for the uses to which it has been restricted:** The use of the property for a small office is the most suitable use of the property. This corresponds to the use of the doctor's office to the east that is in the same ownership as the subject tract, as well as the approved uses for the property to the north of Central approved for "GO" subject to a protective overlay. It completes the buffering of uses from greater intensity near the intersection of Central and Hillside and to exclusive residential use east of Clifton.
- Extent to which removal of the restrictions will detrimentally affect nearby property:** Use of the property for more intense commercial use such as a restaurant with a drive-through window will have significant effects on the surrounding property by greatly increasing the traffic that is forced to use residential streets for access, and increasing the noise, lights and other effects on houses located within ten feet of the southern property line.
- Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The requested rezoning is not in conformance with the "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as appropriate for "office" (northern half) and "transportation" (southern half).
- Impact of the proposed development on community facilities:** Due to the street alignment of Vassar at Central, which is slightly offset north and south of Central, through traffic on Vassar is prevented from crossing Central. The intersection is channelized and signalized. This prevents left turns into or out of the proposed rezoning tract. Central is already a heavily traveled street with numerous driveways and streets intersecting its traffic flow. Introducing another commercial use will deteriorate service on Central. Additionally, left turns into or out of the proposed rezoning tract are prevented. The routing of commercial traffic onto these residential streets is contrary to the Comprehensive Plan guidelines for commercial use.

Should MAPC decide to recommend in favor of commercial use, staff recommends it be limited to "GO" General Office, subject to providing cross-lot connections with the property to the east in the same ownership, and subject to closure of the one drive on

Central and one drive on Vassar, and subject to the same protective overlay as the property to the north with the exception of allowing the addition of personal improvement service. These recommendations are intended to reduce the scale and intensity of use to partially mitigate the effects noted in the findings above.

1. Allow all those uses permitted by right in the "GO" zoning district with the following uses prohibited: manufactured home, group residence (general and limited), correctional placement residence (limited and general), cemetery, group home (limited, general, commercial), hospital, schools (elementary, middle, and high), broadcast and recording studios, funeral home, hotel-motel, marine facility (recreational), animal care (limited and general), heliport, printing and copying limited, vocational schools, warehouse self-service, wireless communication facilities, funeral home, recycling collection station (private) and all industrial, manufacturing and extractive uses.
2. Meet all landscaping, screening, lighting, compatibility and buffering requirements, per the UZC and the Landscaping Ordinance, including one shade tree or the equivalent every 20 feet along the edge(s) of the development.
3. Design and materials used in the development of the site will be compatible with the immediate residential and the current development of PUD2001-02.
4. Height restriction of 35 feet.

HENTZEN Is there another use suggested for this piece of property? They don't want to build a home on it I don't think.

GOLTRY Some of the ideas would be "GO" General Office for the whole property. Also, "TF-3" Two-family Residential for duplexes, that there might be a demand for duplexes on the property. We had one suggestion for it to be a park, but I don't think the City would undertake accepting it, just because our track record has not been good in accepting small parcels for parks. Part of the problem, too, is that the way the BZA was written up originally, it designated the property to the east side of Vassar for the off-street parking. And, even just using the property as "GO" General Office would be a step up in intensity, but one that would be less intense than introducing retail.

HENTZEN Are we addressing the northern part of it? It is "GO" General Office already?

GOLTRY It is "GO" General Office, and I think it could be clarified that it could be used for "GO" General Office purposes.

HENTZEN By right?

GOLTRY Yes.

HENTZEN The south is zoned?

GOLTRY The south is now zoned "SF-5" Single-family.

HENTZEN What I am thinking about if we deny the thing? What can they use it for?

GOLTRY It has been technically a parking lot. But, the most cars shown parked on the lot in the previous aerials was no more than 11 cars. So it is not fully utilized.

HENTZEN He needs zoning for the back part?

GOLTRY Unless he uses it as a parking lot to support development of the northern half. That could be done too as a parking lot by conditional use.

HENTZEN It is not a very big area. Someway we have to arrange so that he can do something with it. They could just use right hand turns going out on Central going somewhere to get turned around.

GOLTRY I honestly do think that somebody else had made the suggestion before. That is one possibility, but probably sends the traffic through the neighborhood.

BARFIELD Basically your objections are the traffic patterns?

GOLTRY Yes.

BARFIELD This is a very heavy traffic area of Central. And we do know that Central is going to be widened from Oliver east to Rock Road. Are you saying that as far as you know, there are no plans to widen Central from Oliver to Hillside?

GOLTRY Not that I am aware of. And that is something that has been tried in the past and has not been met with success.

GREG FERRIS, Ferris Consulting On the surface when we applied for this, we thought "LC" Light Commercial would make sense with "LC" across the street. We met with some people that lived on Vassar, and we withdrew the "LC" Light Commercial request at that time, and reduced it to "NR" Neighborhood Retail to try and alleviate some of their concerns. One of the things the neighborhood is concerned about is that there is currently an Intrust Bank there, and the Bank creates a lot of traffic. So you can see we agreed to eliminate bank uses. This is a piece of property that has no immediate practical use, and we have been told that there is a mixed feeling. We don't even know if we can do "GO" General Office on the part that is zoned "GO" General Office because of the BZA, and the way that their recommendation was written. It restricted the property to only parking lots; so while you have an overlay zoning of "GO" General Office, you have another Body that has put a restriction on it. So it may take some court to sort that out. We would prefer that it be sorted out today so we would at least know where we are going with that.

Dr. Watson purchased this property primarily to access the empty dentist office. He is in the process of remodeling that. Dr. Watson only does root canals in his practice. You can only do two to three of those at a time, so the 15 parking spaces that are available at the current location are quite adequate. You have a piece of property that has been vacant for a number of years that really now needs a use. When you look at what is available, "NR" Neighborhood Retail was designed for neighborhood-serving uses, low density, low traffic generating and low impact uses. That is the purpose of "NR" Neighborhood Retail, and this site is specifically suited for "NR" Neighborhood Retail.

College Hill is concerned about spurring development along Central. But that argument does not have an impact on this property. You have "LC" Limited Commercial, "GO" General Office across the street and "GO" General Office adjacent so that does not have an impact on this property. We do concur that we have offered a 30-foot setback on the south side, which is very unusual and not required. We have offered to close a driveway or two, perhaps both of those south drives. We have offered to extend a fence up half way the distance which means we are going to fence and landscape our "NR" Neighborhood Retail property across from "LC" Limited Commercial property. The idea was that some of the neighbors insisted that they had a view corridor, that they would prefer not be disrupted with some development, so we have offered to create that solid wood fence as well as landscaping along that. We have offered architectural control that it should match residential in character. We have tried to address many of the issues, but we couldn't get all the way there with the neighborhood. I believe that with Central being a major arterial, this property will dictate the kind of development that goes in there. There are some uses in "NR" Neighborhood Retail that may make sense here, particularly being across the street from a hospital. There are some medical related services that are not allowed in "GO" General Office that could be allowed in "NR" Neighborhood Retail, and we have offered to restrict more of the specific uses in "NR" Neighborhood Retail if those things were given to us. We are open for discussion. We don't think the highest and best use for this property is a duplex, being with a commercial property on each side and across the street and on a major arterial. However we have not ruled that out either. We would like some flexibility. Maybe College Hill would want to purchase the property. Dr. Watson invested a lot of money in this property, and he has a vested interest in what goes into this property. He will have to live with whatever goes in there. We believe what we are asking for is appropriate.

BISHOP Where is Dr. Watson's dental office going to be?

FERRIS He is currently on 225 North Hillside, he has outgrown that facility. The property immediately to the east of the vacant lot is the building that he will be occupying.

HERNANDEZ The primary use for that (pointing to the application area), is it going to be a restaurant?

FERRIS No. When we had made our original request, we had requested "LC" Limited Commercial. We changed it to that we would accept an overlay of "NR" Neighborhood Retail, excluding restaurant uses. The neighbors were opposed to that type of request, so we have withdrawn that. There is nobody on the horizon to buy this property today. Frankly, it would be easier if we did.

HERNANDEZ Do you have any proposed uses?

FERRIS We think some of the elements in "GO" General Office may be appropriate, but there are a couple of things in "NR" Neighborhood Retail that are not allowed in "GO," and that would be some personal care uses particularly, and personal improvement such as photography studios, a very low traffic generator, art and music schools. These are things that are destinations. If we developed the property as a multi-family use, and we did 20 units in there you would generate 200 cars a days based on the normal usage, and some of these uses would not generate 200 cars a day. So that is why we think it may be appropriate; so those are some of the things that we think may be suited even with the traffic challenges. We have eliminated uses like a Dollar General Store.

BETH KING, Vice President of the College Hill Neighborhood Assoc., 4222 E. English, Wichita, KS 67218 I am here representing the views of the neighborhood association. The last time we met with Mr. Ferris, and we talked about "NR" Neighborhood Retail, it is correct that he was willing to except certain uses from "NR". At that time, restaurant was not one of the uses that he was willing to except. I think I heard today that a restaurant would not be a proposed use under "NR".

We have people in College Hill neighborhood that want this as a park, and some that want this to stay the way that it is, but it is unrealistic. We have a long history of partnering with a very educated and reasonable look at the needs of College Hill, to be good business partners and assist owners in making money. And we understand that is what this is about. We have evaluated this zoning request, and took a long and hard look at this request. Our concern is this traffic flow that we cannot change. How much of an increase is acceptable and how much of an impact is acceptable. Our other concern is hours of operation and the way that is going to impact adjacent property owners; and "NR" is too intensive and the impact is not acceptable.

Most of the lot is zoned "GO" General Office. We would be happy to work with Mr. Ferris in developing "GO" General Office use of that parcel. We believe that "GO" is more appropriate for that particular parcel given the traffic pattern and the impact on a neighborhood that you have helped us several times to preserve and protect.

BARFIELD Some of your members want to leave this undeveloped? Have you considered buying this property and leave it vacant?

KING We have spoken with Mr. Ferris, and we have given consideration to that.

BARFIELD There would be too much traffic associated with this type of development? How much is too much?

KING I can't tell you number of cars, but I do know that when we talk about the intensiveness of uses, and the way that we evaluate "GO" and "NR", etc, we look at intensiveness. We believe that "NR" would be more traffic than a "GO" use.

BISHOP About the objection to the possibility to a restaurant, what was that based on?

KING Initially this was proposed as restaurant with a drive-through. The concerns were noise, lighting, traffic. But in that parcel, when looking at the traffic pattern and the investment of the street infrastructure, we felt a restaurant would be a use that was too intensive and disruptive to Central and the residences.

BISHOP I was trying to think of uses that might entail more foot traffic. We tend to believe retail will be all automobile, but in that particular area it seems a type use might be foot traffic.

KING It is not my job to define uses.

THERESA CONFESSORI, 335 N. Vassar, Wichita, KS 67208 This effects not only the people that live on Vassar Street, but the people that also live on Rutan. On Central Street, just between Vassar and a couple of blocks east of there are actually two school crossings. Clifton, which is the next street to the east, and which is the street that would take the bulk of any traffic that was routed through the neighborhood, is the street that College Hill Elementary is on, and has a huge amount of elementary school traffic. Also, Third Street, which would be the route around if you were to route it through the neighborhood to be able to turn left in and out of there. Third Street is very, very narrow, and it is also a brick road. You had asked how much traffic would be too much for a brick street? It doesn't take a lot of traffic for it to be an increase. The historical flavor of the College Hill neighborhood is so important to all of us that live there. We would like to see the intensity of the use be as limited as possible, and also the hours of the use be as limited as possible as well.

BARFIELD The Walgreens at the corner there is open 24 hours a day. Has that had a detrimental effect on the neighborhood?

THERESA CONFESSORI The area that was there before was open 24 hours a day. I would say the biggest impact has been in the traffic flow, but especially on Rutan and Clifton, and Chatfield and Third. Because people can't turn left out of Walgreens there onto Central, they take that back alley shortcut down Rutan and then they turn on Chatfield, or they go flying down Rutan past the school, etc. And I think that has been a huge impact on the traffic.

LOU CONFESSORI, 335 N. Vassar, Wichita, KS 67208 I have lived here for over 20 years. I have three grown sons, and because it is a corner lot, we have played football and basketball in the front lawn. The architecture in that area is such that all of the garages are in the back and the porches are in the front. So family life is on the porch and on the front lawn. So any impact to traffic will affect family activities.

CELIA GORLICH, 402 S. Crestway, Wichita, KS, President of College Hill Neighborhood Association I want to reiterate one point, the traffic. I have counted cars at the bank and there is so much traffic there. People who want to go to Panera Bread, and pick up a sandwich before they go home for dinner; they are coming up Douglas, they go through the neighborhood. They come up Rutan, and they go in the back way, even people who live in the neighborhood. This will increase traffic. Rutan and Third is very, very busy.

BILL SKAER, 116 N. Terrace, Wichita, KS 67208 I want to elaborate on the flavor of the College Hill neighborhood, and why some of us live in College Hill. We moved out east and have, since then, come back to College Hill for the unique architecture of College Hill, and the sidewalks and the front porches. And, we sit out there and say high to the neighbors. And, it is what a neighborhood ought to be. I believe that College Hill needs a protective overlay. It is a historical neighborhood. I urge you to do whatever you can to protect that neighborhood. It is classified as an inner city neighborhood by the Police Department, and many of us love the area, and encourage you to keep that area as strong as we'd like to see it.

FERRIS It is hard for me to stand up here. We will discuss selling the property if they have an interest. I don't think Dr. Watson is looking for a huge return because his primary investment was in the building. First of all, let's address the restaurant use. I want to clarify that we had originally asked for restaurants to be able to be larger than 2,000 square feet, and to be able to have a drive-thru, and that is why that came out on the cover as a proposed use. It is not our preference for restaurant to be left out of the "NO", but at your discretion you might do that because in "NO" you are only allowed a restaurant of 2,000 square feet, and no drive-ups or no service like a Sonic or anything like that.

Part of our whole problem was that the Central and Hillside situation did kind of change from what they thought it would be, and that was a C.U.P. and most of them have tweaking aspects of those that we call Administrative Adjustments. A zone change like this would not have that, so the restrictions that we are asking, I don't want to make promises to the neighborhood. Because promises could happen long after I am gone and those things change, but what I want you to do is put those in your recommendation that you put forward, and I have no problem that you include any of the things that are here.

As far as the traffic on Central, I think the report that you have says that if we try to change the medial, that we would impact the traffic on Central. And I agree with the analysis that Traffic Engineering has made. That certainly will not be something that we want to go through, so we agree with that. We are looking at a land use case here, and traffic is certainly part of that, but if you look at the things that are allowed on "NR" Neighborhood Retail; they are low in traffic usage. We would ask you to approve the "NR" with the restrictions that are here.

JOHNSON There is a parking lot there now that appears to be tied in with the bank? Was that a requirement for them?

FERRIS My recollection is that bank that was there before was larger. And, they have remodeled the parking that was required to be part of the new bank. There is no requirement for anybody at this time to require those parking spaces.

JOHNSON It appears me that the function of the facility to the west of that, if it changed, they could probably lease that parking lot. It will still have the traffic in that area.

FERRIS Parking always attracts vehicles. I know that Celia did count those cars, and that is the reason we took banks out of there even though they are allowed in "NR".

BARFIELD You mentioned the closure of driveways, which ones?

FERRIS We were talking about closing the southern two on Vassar. So that would leave one driveway on Vassar, and one driveway on Central.

DUNLAP I know you have this all figured out. What is the solution?

SCOTT LOGAN, Traffic Engineering This is tough because Vassar is jogged about 20 feet so we can't open that up on Central. I think the middle driveway should be left open.

DUNLAP Do we have any C.I.P. projects for Central East?

LOGAN We are always working on this because Central is a major corridor, and it does serve a heavy traffic flow, and is one of our few arterials that heads east and west. Currently I don't think there is anything in the C.I.P.

DUNLAP The basis for my question is the median and the lanes on either side of it may have to change.

LOGAN This intersection is fixed.

BISHOP You would be looking at widening the street in the future?

LOGAN I have not been involved with the widening of this street. I don't know that anything has been proposed.

MOTION: Approve, subject to staff comments with the closing of the two driveways north and south, and leaving the middle drive open.

BARFIELD moved, **HENTZEN** seconded the motion.

JOHNSON Approve for General Office?

BARFIELD Approve for Neighborhood Retail.

HERNANDEZ Could you repeat that motion Mr. Barfield.

MOTION: To approve, subject to staff comments including the closing of the two driveways on Vassar, leaving the middle drive open.

BARFIELD moved, **HENTZEN** seconded the motion.

JOHNSON That doesn't make sense; staff is recommending denial.

MOTION: To approve "NR" Neighborhood Retail, with the closing of the two driveways north and south, and the conditions the applicant has agreed to.

BARFIELD moved, **HENTZEN** seconded the motion.

SUBSTITUTE MOTION: To Deny "NR" Neighborhood Retail and Approve "GO" General Office for the front part of the property.

BISHOP moved, **WELLS** seconded the motion.

GOLTRY Clarification on the motion please, is that straight "GO" General Office or is that "GO" General Office with Protective Overlay provisions that were in the first staff report?

BISHOP Correct, with the Protective Overlay provisions.

HENTZEN With the "GO" recommendation does that mean that we give them "GO," they wouldn't have to buffer?

FERRIS No, we will with "GO," we didn't want to with residential.

GOLTRY His concern was if they did non-residential use, he was offering those restrictions, and if they end up developing with residential duplex use that they not be held to those requirements. That is for the whole lot, is that correct?

BISHOP Yes.

SUBSTITUTE MOTION: Fails 4-6-1. **BARFIELD, SUNQUIST, JOHNSON, MARNELL, MITCHELL, HENTZEN** opposed. **MCKAY** abstains.

GOLTRY I would like to point out that one thing that is, perhaps in blending together the memo and the original staff report, is that it actually did say in the original staff report that if MAPC should approve the rezoning, that there would be cross-lot circulation between this property and the one to the east.

DISCUSSION BETWEEN GOLTRY AND FERRIS UNABLE TO HEAR.

GOLTRY I had a question about the restaurant use.

BARFIELD I thought he indicated that is not an issue anymore.

BISHOP He indicated that we would have to state that.

BARFIELD Okay, amend the motion to include no restaurant uses.

MOTION: To approve "NR" Neighborhood Retail, and subject to the applicant's offered protective overlay restriction and closing two drives on Vassar and amended with cross lot circulation and no restaurants.

BARFIELD moved, **HENTZEN** seconded the motion, and it carried (8-2-1) **WELLS** and **BISHOP** opposed. **MCKAY** abstains.

7. **Case No.: CUP2003-67 DP36 Amendment #1** – Nestor R. Weigand, Jr., Ross Tidemann, Herbert L. Krumsick, Louis E. Weis, Norma Jean Weiss, (owner); MKEC c/o Greg Allison (agent) Request Amendment to Pizza Hut Second Addition Community Unit Plan on property described as;

Tract 1:
Parcel B-1

That part of Lot 1, Block A, Pizza Hut Second Addition to Wichita, Sedgwick County, Kansas described as commencing at the NW corner of said Lot 1; thence S 00 degrees 00'00" E along the west line of said Lot 1, 641.20 feet; thence N 90 degrees 00'00"E, 95.58 feet; thence S 72 degrees 00'00"E, 200 feet; thence N 54 degrees 46'03"E, 73.48 feet; thence S 33 degrees 46'58"E, 382.94 feet; thence S 00 degrees 00'00"W, 275.35 feet to a point on the south line of said Lot 1; thence N 89 degrees 40'00"E, 270 feet to the SE corner of said Lot 1; thence N 00 degrees 01'00"E, 1255.65 feet to the NE corner of said Lot 1; thence S 89 degrees 48'00"W, 828.47 feet to the Point of Beginning.

Except the North 128 feet thereof dedicated for street right-of-way purposes.

Tract 2:
Easement #1

That part of Lot 1, Block A, Pizza Hut Second Addition to Wichita, Sedgwick County, Kansas described as beginning at the NW corner of said Lot 1; thence S 00 degrees 00'00"E along the west line of said Lot 1, 641.10 feet; thence N 90 degrees 00'00"E, 95.58 feet; thence N 25 degrees 18'47"W, 130.00 feet to a point 40 feet east of the west line of said Lot 1; thence N 00 degrees 00'00"E, 523.82 feet to a point on the north line of said Lot 1; thence 89 degrees 48'00"W, 40 feet to the Point of Beginning. Generally located On the south side of Kellogg approximately 1/2 mile east of Webb Road.

BACKGROUND: The applicant is requesting to change the use restrictions on DP-36 Pizza Hut Second Addition. The request also would change signage provisions, access, and add some site development provisions.

The applicant proposes to allow all "GC" General Commercial uses except correctional placement residences; group homes; half-way houses; night clubs including adult entertainment and sexually-oriented businesses; recycling, public, private and processing center; pawn shops; tattooing and body piercing; wireless communication facilities; and uses that require conditional use permits in the "GC" district. It is staff's understanding that the amendment has been initiated to accommodate a proposed vehicle sales operation on the northern and eastern portions of the C.U.P.

The applicant has requested that allowable sign heights be increased to 35 feet and to have up to a maximum square footage for all signs (including freestanding and wall signs) not to exceed 2,100 square feet. Proposed signage has been submitted and copies are attached. The proposed wall signage shows less than three wall signs per elevation and none exceed maximum size for wall signs. The proposed freestanding signs are within the Sign Code maximum size of no more than 300 square feet per sign and total amount of freestanding signage is below that allowed by Sign Code. The amendment proposed removing the prohibition on offsite signs, but it is recommended to keep the prohibition because the Unified Zoning Code prohibits offsite signs in C.U.P.s.

Originally, the C.U.P. was designed for office use. It was a single parcel for the Pizza Hut, Inc. corporate headquarters located on the southern half of the property in 1970. This office building is now the Frank E. Hedrick Center, an office/employee center for Raytheon. The C.U.P. was adjusted administratively to divide the property into two C.U.P. parcels based on a requested lot split. (This lot split is pending and would be finalized upon receipt of a sewer extension agreement.) The Frank E. Hedrick Center is located on Parcel 2, a 7-acre panhandle shaped lot in the southwestern corner of the C.U.P. with a private drive access along western edge of the C.U.P. Parcel 1, which is 14+ acres in size, is located along Kellogg and is proposed for development with a vehicle sales operation.

The C.U.P. has standard 35-foot setbacks. It adds landscape requirements per the Wichita Landscape Ordinance, and requests a height maximum of 41 feet unless "an Airport Hazard Zoning Permit for Area A is granted prior to the issuance of a building permit" (proposed General Provision #2).

The property to the north is zoned "LI" Limited Industrial and is the Raytheon manufacturing plant and includes the runways for testing aircraft. All the property between Kellogg and the KTA is zoned "GC" General Commercial. The property immediately to the west is developed with a farm supply store, a large nightclub, and a private club. The adjacent property to the east is vacant. Generally, property along the south side of Kellogg between Webb and Greenwich is developed with a variety of car lots, manufactured home sales lots, and some specialty retail stores. Single-family residential is located on the south side of the KTA.

CASE HISTORY: DP-36 Pizza Hut Second Addition C.U.P. was approved October 28, 1969. The property is platted as Pizza Hut Second Addition, recorded December 3, 1969. The plat noted that the northern 255 feet was subject to General Provisions 10, 11, 12, and 13 of the Pizza Hut Second C.U.P. until the design of a frontage road along Kellogg. In 1998, the northern 128 feet was dedicated as right-of-way for the frontage road and the platted setback was vacated to a width of 35 feet along the northern property line (V-2088).

A vacation of access controls, VAC2004-00001, is pending. It requests vacating current access controls that limit access to one 30' opening on the west edge of the parcel and replacing it with access to a proposed street along the east edge of the C.U.P. that would connect to a Kellogg frontage road. (See "Public Facilities" for additional discussion and "Recommendations" for staff recommendation related to the access control request).

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Raytheon manufacturing plant, runways
EAST: "GC"	Vacant, retail, car lot
SOUTH: "SF-5"	KTA, single-family residential
WEST: "GC"	Farm supply store, nightclub, private club, car lots

PUBLIC SERVICES: 2002 traffic counts for Kellogg were 32,200 ADT (vehicles per day). The 2030 projected ADT was 71,700 vehicles per day. Kellogg is a four-lane principal arterial today. No frontage road exists along the subject property. It is not slated for freeway construction in the current ten-year Capital Improvements Program.

Currently, the private drive along the west edge of the property is the only point of access to the Frank E. Hedrick Center. It runs parallel to a private drive serving the farm supply, nightclub and private club, separated by a woven wire fence. While the two drives do not merge into a true "joint access point" onto Kellogg, the drives flare into one large opening so they only interrupt the flow of Kellogg at one access point.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development. The C.U.P. amendment is in conformance with the *Comprehensive Plan*.

RECOMMENDATION: Moving the drive to the east side of DP-36 along the half-mile line introduces a new access point to Kellogg unless a frontage road is constructed to route traffic from the existing driveway to the new access point. However, the location of access connected to a frontage road along the half-mile line (east property line) has been acknowledged on the C.U.P. as the ultimate access location once the permanent frontage road system on Kellogg was constructed. The C.U.P. also stipulates that the property provide and/or join in a valid paving petition for the guarantee of the future improvement of the future frontage road at the time right-of way is dedicated. But it must be noted that any permission to make any change to Kellogg access is regulated by Kansas Department of Transportation, not the City of Wichita (agreement between KDOT and City of Wichita). Wichita does not have the authority to decide when/if to establish the access point on the half-mile line.

Four existing C.U.P. general provisions pertaining to the frontage road and access were removed from the proposed Amendment #1, but staff recommends they be maintained as part of the approved C.U.P. Staff also is recommending minor changes to clarify signage, use and height restrictions.

A traffic impact study is required by the City Traffic Engineer, who will submit it to KDOT. This traffic study will evaluate the impact of shifting the proposed drive on Kellogg and the adjacent land uses and will be used to identify the frontage road configuration, the length and configuration of accel/decel lanes and a Kellogg westbound left-turn lane, and signalization. The results of the traffic impact review needs to be finalized prior to determining if/when the access control change can be granted.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be **APPROVED subject to the following conditions:**

1. Restore the following provision: "Pizza Hut, Inc. agrees and binds upon their successors and assigns, that no development shall take place on the north 255 feet of Lot 1, Block A Pizza Hut Second Addition, until such time as a frontage road system is dedicated from this property." Add the following statement to this provision: "This provision has been satisfied by 128' street right-of-way dedication, Film 1809, Page 1279 dated July 22, 1998".
2. Restore the following provision: "Pizza Hut, Inc. agrees, and binds upon their successors and assigns, that said frontage road will be dedicated at the location required by the City of Wichita within said 255 feet when this portion of the property is proposed to be developed; OR when the City of Wichita determines that said right-of-way and frontage road is needed. On the event Pizza Hut, Inc., or their successors or assigns, desires to develop said property being herein reserved for future frontage road, replatting shall be required and the needed right-of-way and geometrics of construction shall be determined at that time."
3. Restore the following provision: "Pizza Hut, Inc. and their successors and assigns shall be bound to provide and/or join in a valid paving petition for the guarantee of the future improvement at the time the frontage road right-of-way is dedicated." Add "or at the time of development of the residual area within the original 255 feet of property."
4. Restore the following provision: "Pizza Hut, Inc. agrees, and binds upon their successors and assigns, that when a frontage road is constructed, the private drive indicated generally along the west property line shall be relocated to the east of where the frontage road will intersect with its direct access to the highway."
5. Add a general provision: "A traffic impact study shall be submitted to the City Traffic Engineer for review and submittal to KDOT."

6. Add a general provision: "If in the future KDOT grants access to Kellogg frontage road for the interim prior to freeway construction, the owner of Parcel 2 agrees and binds upon their successors and assigns, to guarantee the cost of channelization, accel/decel lanes, left-turn lanes and signalization of Kellogg and Kellogg Drive, if warranted by KDOT."
7. Add: "This approval shall not be interpreted to convey any direct access onto Kellogg from this property. All new access shall be permitted onto the Kellogg Drive frontage road only, which frontage road may have a new access onto Kellogg at the east property line only by Kansas Department of Transportation approval and subject to KDOT provisions. If granted, the owner or successors and assigns shall be responsible to construct the interim frontage road from the existing opening to the new access point."
8. Add: "KDOT retains the right to at any time revoke access onto the Kellogg freeway or relocate access for other future traffic needs."
9. The C.U.P. drawing shall be revised to align the site plan in conformity to the Kellogg Drive access configuration determined by KDOT.
10. Add to General Provision #2: "Buildings, signs, light poles and any and all projections or architectural embellishments...."
11. Add to General Provision #3: "recreational vehicle campgrounds and vehicle storage yards".
12. Add to General Provision #7: "Signage shall be per the City of Wichita Sign Ordinance. In addition, the following provisions shall apply: A. No offsite or portable signs shall be permitted. B. Signs shall not exceed 35 feet in height provided such height is permitted by the Sign Code. C. The maximum square footage for all signs on the C.U.P. shall not exceed 2,100 square feet, including "Building Signs". No sign shall exceed the maximum height or area allowed by the Sign Code, and the maximum square footage of freestanding signs shall not exceed 0.8 times the lineal frontage along either Kellogg Drive or the KTA. All freestanding signs shall be spaced a minimum of 150 feet apart regardless of ownership and for each five feet of height about 25 feet, it shall be counted for spacing purposes as equaling a freestanding sign.
13. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
14. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
15. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
16. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or KDOT determination as to access or the request shall be considered denied and closed. The C.U.P. shall not be considered final until the final approved C.U.P. drawing has been submitted and approved.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is developed with an office use for Raytheon (Frank E. Hedrick Center) that was originally the Pizza Hut, Inc. corporate headquarters located on the 7-acre parcel in the southwest corner of the property. The remaining 14+ acres are vacant. All the property between Kellogg and the KTA is zoned "GC" General Commercial. The property immediately to the west is developed with an implement/farm supply store, a large nightclub, and a private club. The adjacent property to the east is vacant. Generally, property along the south side of Kellogg between Webb and Greenwich is developed with a variety of car lots, manufactured home sales lots, and some specialty retail stores. Single-family residential is located on the south side of the KTA.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "GC" but restricted to office and similar uses. This is a restriction that matches the development of the other portion of the C.U.P., but is more restrictive than the rest of the development of heavy commercial types of uses along Kellogg.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Heights for signage, light poles and buildings, are restricted by the proximity to the runways for testing Raytheon aircraft. The development will position a retail use between the office and Kellogg and further reduce visibility of the office from Kellogg. The other potential effects are realigning access to businesses along the south side of Kellogg, as anticipated by the original C.U.P.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed development is in conformance with the "Land Use Guide, as amended 1/02" of the *1999 Update to the Comprehensive Plan* designation for "commercial" development.
5. Length of time the land has been vacant as currently zoned: The property has been currently zoned and approved as a C.U.P. since 1969 and has remained vacant since that time.
6. Impact of the proposed development on community facilities: The addition of a new access point onto Kellogg would be a safety concern and determination of this action is a KDOT responsibility. The recommended conditions allow for the possibility of the new access point only if KDOT approves, the traffic is rerouted from the existing opening to the new point, and requires a guarantee for accel/decel lanes, left-turn lanes, channelization and signalization.

DOUG KLASSEN, MKEC AGENT We are in agreement with staff comments. We have met with Traffic Engineering, discussing the issue of access. The applicant desires to move the current access, which is on the west property line coming out of the existing Raytheon facility to the east property line, which would be the mid-mile point. We have also met with KDOT on this, and everyone is in agreement that the removal of this entrance from the west line to the east line is a good idea overall. There will be the requirement of the traffic impact study to determine what improvements may need to be made to Kellogg in order for that to happen safely.

In Item #11 it says "Add to General Provision #3: "recreation vehicle campgrounds and vehicle storage yards". I have spoken to Donna, and she has assured us that this does not prohibit keeping vehicles for sale on the lot...

TAPE CHANGE

CHRIS CROWE, CARMAX AUTO SUPERSTORES, INC., 4900 Cox Rd., Glen Allen, VA 23060 We have been in business for 10 years. We just sold our millionth car. We offer certified late model cars, typically no older than 3-5 years, and less than 60,000 miles used vehicles. Our facility is a first class facility. It does not look like typical car dealership. We don't have inflatable gorillas, don't paint shoe polish, don't have streamers and don't put hoods up. There are a number of bays; the doors open and then close once a vehicle is inside. There are no outdoor speakers. Our question about the storage of used cars is we have what you call a W.I.P., work in progress area. That area is screened from the street with a 6-foot masonry wall that the public can't see into, and we feel like it presents an attractive facility.

HENTZEN What was the issue about Condition #11?

GOLTRY Storage yards aren't intended to cover vehicles for sale; these are vehicles that aren't regulated under the dealers license for car sales.

HENTZEN Do we leave it the way it is or revise this condition?

GOLTRY You can just clarify that ancillary storage of vehicles in conjunction with their primary use is allowed.

CROWE Perhaps, I would think, except as ancillary to the intended use to a used car facility. We keep cars behind this work in progress area for sale, and so we technically store cars there and we don't want to get tripped up with the language.

BARFIELD I didn't hear you say anything related to elevated ramps.

CROWE No we have none of those either. If you haven't seen our store in Kansas City, we put up very nice facilities.

DUNLAP Condition #12, regarding the signage, do you understand how much different this is then the current Sign Code; that you are creating almost a new Sign Code for this particular plot, and this is acceptable to you?

CROWE Yes, sir. What we have done, we have reached an agreement with Raytheon to share signage so they have a entrance sign on their entrance drive as well as another sign that is currently in the middle of the right-of-way, and we will take down those two existing signs and then our use will be on a sign with them. That is a monument sign so when you drive onto the entrance road you know which way to go.

DUNLAP Nothing we have in Condition #12 here is in conflict with your national appearance manual at all?

CROWE That is correct; we crafted it to fit our needs.

MOTION: Approve, subject to the amended conditions suggested by staff and the applicant agrees to.

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (11-0).

8. **Case No.: ZON2004-02** – Lyons Holdings, LLC Request Zone change from "B" Multi-family Residential and "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Lot 27, Block 1, Galyardt's First Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located Between 9th Street North and Murdock, on the west side of West Street.

BACKGROUND: The applicant is requesting consideration for a zoning change from "B" Multi-family Residential and "SF-5" Single-family Residential to "LC" Limited Commercial, on Lot 27, Block 1, Galyardt's 1st Addition. The front ¾ of the lot contains the "B" zoning with the back ¼ containing the "SF-5" zoning. The owner is requesting the zone change to be consistent with other properties along West Street. The site is currently vacant, with an existing drive onto it.

Abutting the site's west side is "SF-5" zoning, which was developed in the late 1950s as single-family residences. Abutting the site's south side is "LC" zoning with the current structure having been built in the early 1970s, it is now housing an automobile transmission repair shop. Across West Street, east of the site, there are "LC" Limited Commercial zoned lots and a "B" Multifamily zoned lot. Development on the "LC" properties includes an apartment complex built in the early 1970s, a convenience store built in the early 1980s and a fence contractors yard. The property zoned "B" is developed as part of the fence contractors yard. There is a small, single story structure in this portion of the yard, which was built in the early 1950s. Abutting property north of the site is zoned "LC", built in the early 1960s as a small strip center with current occupants being a Thai restaurant, a barber shop, a nail and skin care service, a watch repair shop, a tailor shop, a TV repair shop, swimming pools sales; all neighborhood retail in character. In fact, this area of West Street's non-residential development is either neighborhood retail or neighborhood office in character. The exception is the fence contractors yard with its out of character, for the area, outside storage. Around the Central Avenue section of West Street, south of the area, non-residential development begins to have some regional and national chains with their frequency increasing the closer one gets to the Kellogg/US-54 – West Street interchange.

There have been numerous zoning changes in this immediate section of West Street where the site is located, from 8th Street on the south to the Zoo Blvd – West Street intersection on the north:

- (a) Z-2331 – From “AA” One Family & “B” Multifamily to “LC” Limited Commercial, located east of the site, across West Street, approved in 1981.
- (b) Z-2738 – From “AA” One Family & “B” Multifamily to “LC” Limited Commercial, located east of the site, across West Street, approved in 1986.
- (c) Z-2366 – From “B” Multifamily to “LC” Limited Commercial, located between 10th and 9th on the east side of West Street, approved in 1981.
- (d) Z-3226 – From “B” Multifamily to “LC” Limited Commercial, located across West Street west of the site, approved in 1997.
- (e) ZON2001-35 – from “SF-5” & “B” Multi-family to “LC”, approved in 2001.

In these cases commercial zoning and non-residential uses have replaced the residential zoning and the residential uses along West. The uses for these zoning changes have generally added neighborhood office, local retail services and auto repair or maintenance related businesses to this section of West Street. This development trend has eroded the desirability of residential uses on West Street. With the exception of the previously mentioned property zoned “B” and another site zoned “B” & “SF-5”, the rezoning of this site will mean that West Street will have unbroken “LC” zoning on its frontage from 9th Street North to St. Louis, which is a block south of Central.

The proposed development will trigger required landscaping (per approval by the Planning Director), screening and development according to City Codes. The applicant will also need to dedicate 10-ft of ROW and bring the utility easements up to current standards

CASE HISTORY: The property is Lot 27, Block 1, Galyardt’s 1st Addition and was recorded with the Register of Deeds July 8, 1955.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Limited Commercial	Office	Retail Strip
EAST:	“LC”	Limited Commercial	Multi-family residential, contractors	
	“B”	Multifamily	yard, convenience store	
SOUTH:	“LC”	Limited Commercial	Automobile transmission repair	
WEST:	“SF-5”	Single-family residential	Single-family residential	

PUBLIC SERVICES: West is classified as a 5-lane arterial. The estimated traffic volume of (ADT) trips per day south of West Street – 9th Street North intersection is approximately 19,008 ADTs. The 2030 traffic projections increase the trips per day to 22,739 ADTs. There are no CIPs for this section of West Street. Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as “Commercial”. Commercial location guidelines indicate that commercial uses should be adjacent to arterial streets and for those commercial uses not located in strip centers to be guided to established areas of similar development and where traffic patterns, surrounding land uses and utilities can support such development. The requested zoning change conforms to the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED, subject to dedication of 10-foot of ROW by separate instrument and dedication of 2-feet of utility easement within 180 days of approval of the requested zoning change.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The West Street corridor from Zoo Boulevard on the north to Central on the south is zoned almost entirely “LC” Limited Commercial. The development is local retail, neighborhood office, restaurants, auto repair limited, a used car sales lot, an apartment complex and some single family residential south of Zoo Boulevard on the west side of West Street. Generally, single-family residential development abuts to the east and the west of the commercial properties with West Street frontage.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned “B” Multifamily and “SF-5” Single Family Residential. It is currently vacant. The “SF-5” zoned back portion of the site could be rezoned “B” to match the existing “B” zoning currently on most of the site and the 0.6 acres could then be developed for multifamily residential. The site’s development as single-family residential is highly unlikely considering that it is one of two remaining partially zoned “SF-5” lots between 9th Street North and Central Avenue.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The current zoning of “SF-5” Single Family Residential and “B” Multifamily are not called out as suitable for this site by the Comprehensive Plan; Commercial is.
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal.

MOTION: Approve, subject to staff comments and citing the findings in their report.

DUNLAP moved, **MCKAY** seconded the motion, and it carried (10-0).

9. **Case No.: CON2004-03** – Stephanie Brinkley (owner/applicant) Request Conditional Use for a group residence for pregnant teenagers on property zoned “TF-3” Two-family Residential on property described as;

Lot 4, Gentry 3rd Addition, Wichita, Sedgwick County, Kansas. Generally located North of 11th Street North and east of Madison.

BACKGROUND: The applicant is requesting a Conditional Use to allow a Group Residence, Limited, on a 0.15-acre platted lot located north of 11th Street North and east of Madison at 1212 N. Madison. The subject property is zoned “TF-3” Two Family Residential, and is developed with a single-family residence. The applicant proposes to use the existing residential structure as a group residence for pregnant teenagers. The applicant proposes for the group residence to house five pregnant teenagers and one staff member. A group residence for between 6 and 15 residents, including staff, may be permitted in the “TF-3” Two Family zoning district with approval of the requested Conditional Use.

The surrounding area is characterized by low -density residential development. All of the adjacent properties are zoned “TF-3” Two Family and are either developed with single-family residences or are vacant.

The applicant submitted the attached site plan illustrating the current development of the subject property. The applicant is not proposing any changes to the subject property. Section IV-A.4. of the Unified Zoning Code (UZC) requires one parking space for each staff member and one parking space for each resident that is permitted to drive. Since the residents will not be permitted to drive, the one parking space provided for the one staff member meets the UZC parking requirements. The proposed residential use does not trigger any of the UZC screening or compatibility requirements.

CASE HISTORY: The subject property is platted as Lot 4, Gentry 3rd Addition, which was recorded October 22, 1954.

ADJACENT ZONING AND LAND USE:

NORTH: “TF-3” Single family
SOUTH: “TF-3” Single family
EAST: “TF-3” Single family
WEST: “TF-3” Vacant

PUBLIC SERVICES: The subject property is located along a paved residential street. The property is served with sanitary sewer and municipal water. No impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Low Density Residential” development. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a “Re-establishment Area.” A “Re-establishment Area” contains neighborhoods that exhibit deteriorating social organizations and a lack of private reinvestment. The Comprehensive Plan indicates that neighborhoods within a “Re-establishment Area” need some level of special enhancement or improvement in order to ensure future viability of the neighborhood. The proposed group residence, while not typically found in a single family neighborhood, represents an improvement of deteriorating social organizations and private reinvestment, and approval of the Conditional Use request would be a special enhancement to help ensure future viability of the neighborhood.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

1. The group residence shall be limited to a home for pregnant teenagers and shall be limited to a maximum five residents plus one resident staff member.
2. Residents shall not be permitted to drive a vehicle to or park a vehicle at the group residence. Only the resident staff member shall be permitted to drive a vehicle to or park a vehicle at the group residence.
3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
4. The site shall be developed in general conformance with the approved site plan.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by low -density residential development. All of the adjacent properties are zoned “TF-3” Two Family and are either developed with single-family residences or are vacant. The proposed group residence, while not typically found in a single family neighborhood, represents an improvement of deteriorating social organizations and private reinvestment in a neighborhood specifically identified as needing such improvements.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could continue to be used for a single-family residence. However, the proposed use as a group residence for five pregnant teenagers is not significantly more intense than use of the property as a single family residence or for other uses permitted in the “TF-3” district, and therefore is a suitable use of the property.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: No detrimental affects on nearby properties are anticipated as the intensity of the group residence will be limited to five residents and will be similar in impact as a single family residence.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a "Re-establishment Area." A "Re-establishment Area" contains neighborhoods that exhibit deteriorating social organizations and a lack of private reinvestment. The Comprehensive Plan indicates that neighborhoods within a "Re-establishment Area" need some level of special enhancement or improvement in order to ensure future viability of the neighborhood. The proposed group residence, while not typically found in a single family neighborhood, represents an improvement of deteriorating social organizations and private reinvestment, and approval of the Conditional Use request would be a special enhancement to help ensure future viability of the neighborhood.
5. Impact of the proposed development on community facilities: No impact on community facilities is anticipated.

MOTION: Approve, subject to staff comments and citing the findings in their report.

DUNLAP moved, **SUNQUIST** seconded the motion, and it carried (11-0).

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10. **Case No.: ZON2003-66** – New Life Christian Church c/o Nick Harris (owner/applicant); MKEC Engineering Consultants Inc., Greg Allison (agent) Request Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Lot 1, Block A, New Life Christian Church Addition, Sedgwick County, Kansas, EXCEPT, that portion platted as Ellson Court Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located Southwest corner of east Central and Ellson Street.

BACKGROUND: The applicant requests a zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial on the approximately 4.72 acres of the New Life Christian Church Addition. The applicant has no specific use proposed for the site. The site is currently developed as a church on the west side of the site, with the east portion not developed. The site is located on the south side of Central Avenue and is approximately 700-feet east of Greenwich Road – Central Avenue intersection.

There is "LC" zoning on three of the four corners of the Greenwich Road – Central Avenue intersection. The exception is the southwest corner, which is zoned "LI" Limited Industrial.

This southwest corner is part of an area largely zoned "LI" Limited Industrial, extending south to Kellogg Avenue/US 54, north to railroad tracks located ½ mile north of 13th Street North and from Greenwich Road, west to Webb Road. The Raytheon/Beech Aircraft Company complex is the dominant development in this industrial area and in fact is one of the largest manufacturing/industrial complexes in Wichita/Sedgwick County.

The northwest corner of the intersection is developed as a bank with a drive through, zoned "LC", built in 1982. West of the bank is a marine dealership, zoned "GC" General Commercial, with a conditional use overlay, CU-300, built in 1987. North of the bank is an electrical substation, which is mostly zoned "LC".

The "LC" zoned northeast corner of the intersection is the partially developed 15.75-acre CUP DP-232. This CUP is a mix of commercial and duplex uses. A Saturn car sales lot, built in 2000, occupies the CUP's corner by the intersection. East of the car sales site, still in the CUP along Central, is a retail strip, built in 2001. The retail strip contains a sit down restaurant, insurance office, hair salon, chiropractor's office, a whirlpool – cabinet sales shop and a vacant space. The rest of the eastern portion of the CUP along Central is not developed and sits north across Central from the subject site, ending approximately 1,110-feet from the intersection. The duplex use of the CUP is north of the previously mentioned undeveloped portion. All 11 lots of the duplex use were built in 1999 and are zoned "LC". A large church is north of this CUP.

The LC" zoned southeast corner of the intersection, is the largely undeveloped 7.76-acre CUP DP-229. Its only development is a convenience store, built in 1999, occupying the CUP's corner by the intersection. The rest of the CUP, with frontage on Greenwich is not developed. East of the convenience store is a credit card gas station, built in 1999. The gas station is zoned "LC". The "LC" zoning extends east of the gas station and across Dowell Street.

This "LC" lot is not developed and abuts the west side of the subject site.

Abutting the subject site's south side, which contains a 135-foot floodway, is property zoned "TF-3" and developed with 16 duplexes, built in 2001. "SF-5" zoning and urban scale single-family residential development, built in the late 1990s is located south of this "TF-3" zoning and also abuts the southeast portion of the subject site. "SF-5" zoning with large tract single-family residences and urban scale single-family residential development are northeast - east and across Ellson Street from the subject site. Large tract single-family residential developments are on both sides of Central, east of the subject site, and were generally built before 1940. The urban scale single-family residential development occurred generally in the late 1970s and early 1980s. Further east along Central, on its south side, located at the mid-mile is a "GO" district with Protective Overlays (Pos #33 & #51). This site has a residential motel and office.

CASE HISTORY: The site was recorded as the New Life Christian Church Addition and recorded with the Register of Deeds July 6, 1990. The south 2.3 acres of the New Life Christian Church Addition was replatted, SUB2000-00056, and recorded with the

Register of Deeds, March 6, 2001 as the Ellson Court Addition. The Ellson Court addition was rezoned from "SF-5" to "TF-3", ZON2000-28, and developed into duplexes.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Large tract single-family residential
	"LC"	Not developed, retail/office strip
SOUTH:	"TF-3"	Duplexes
	"SF-5"	Urban scale single-family residential
EAST:	"SF-5"	Large tract & urban scale single-family residential
WEST:	"LC"	Not developed

PUBLIC SERVICES: The site has access to Ellson, on its east side, a two-lane asphalt mat local street with open ditches. The site abuts Central, a four-lane arterial, on its north side. There are 10,207 ADTs on this portion of Central east of the Greenwich-Central intersection. Public water and sewer service are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Office" or "Public/Institutional" development. The "Office" category provides for office developments that furnish business, finance, insurance, real estate, medical, and other professional services usually permitted in office, office park and CBD zoning districts. The "Public/Institutional" uses include government employment centers, libraries, educational facilities, churches, hospitals, private schools, and cemeteries. The Locational Guidelines of the Comprehensive Plan direct office development to be adjacent to arterial streets and that is local service orientated. It also should be incorporated within or adjacent to residential neighborhoods and community scale commercial development. Low-density office use can also serve as a transitional land use between residential uses and higher intensity uses. The "Public/Institutional" Locational Guidelines direct this type of development towards arterial streets. The unspecified use for the "LC" zoning does not conform to the Comprehensive Plan. The locational guidelines recommend that commercial development be located at the intersections of section line roads, not at the mid-mile location.

RECOMMENDATION: Originally the applicant proposed to rezone the eastern 1.2 acres of the New Life Christian Church Addition from "SF-5" Single-Family Residential to "NR" Neighborhood Retail. Staff advised the applicant that they would not support a spot zone on the applicant's property and suggested rezoning the whole site either "NO" Neighborhood Office, "GO" General Office or perhaps "NR" Neighborhood Retail with a protective overlay. All these zoning districts would allow the church to remain on the site as a permitted use and are more appropriate for a site located approximately 700-feet east of the intersection. These zoning districts are intended for small commercial uses and are often used as a buffer between more intense commercial zoning and residential use. Their range of uses is limited to those with fewer impacts on nearby residential use. The PO with the "NR" zoning would eliminate some of the more intense uses allowed by "NR" zoning, plus implement development standards that are in character with recent zoning patterns in the area. Those development patterns include protective overlays (POs # 33 & #51) on the "GO" zoning district located east of the subject site, at the mid-mile point on Central and the CUP (CUP DP-232) that extends from the northeast corner of the intersection, ending north of the site across Central. These overlays recognize the abutting/adjacent single-family and twofamily residential developments that are established in the area, by implementing more than the minimum requirements for screening, landscaping, compatibility setbacks, and signage. The Staff and the applicant could not agree on the appropriate zoning for the site.

Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area west of the Central Avenue – Greenwich Road intersection is dominated by the extensive manufacturing/industrial/office complex of the Raytheon/Beech Aircraft facility. The existing "LC" zoned property is located on three of the four corners of this intersection and immediately, abutting, west of the site. Approximately half of the "LC" zoned lots in the area are not developed. Development on the "LC" zoned sites has generally occurred either in the mid 1980s or from 1999 to 2001. Most of the "LC" zoned sites have CUP overlays on them. The "GO" zoned site located at the mid-mile and east of the subject site has several PO overlays on it. Residential development in the area is either pre 1940 large tract single-family residential, late 1970 to early 1980 urban scale single-family residential, late 1990s to the present urban scale single-family residential or late 1990s to 2001 two family residential.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-5" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. The site could be developed with such uses, although its proximity to Central Avenue make this site less likely to be developed as single-family residential. The current use as a church is appropriate for this site.
5. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "LC" zoning as submitted, would require only a minimum of screening, lighting, setbacks, landscaping and signage to be applied to the site, all of which do not consider the abutting and adjacent residential development in the area. Per the locational criteria of the Comprehensive Plan this site is not appropriate for "LC" zoning.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Office" or "Public/Institutional" development. The Locational Guidelines of the Comprehensive Plan direct office development to be adjacent to arterial streets and that is local service orientated. It also should be incorporated within or adjacent to neighborhood and community scale, commercial development. Low-density office use can also serve as a transitional land use between residential uses and higher intensity uses. The "Public/Institutional" Locational Guidelines direct this type of development towards arterial streets. The unspecified use for the "LC" zoning does not conform to the Comprehensive Plan.

6. Impact of the proposed development on community facilities: Access control from the site is not specified at this point and could negatively impact traffic patterns along Central Avenue as well as the physical condition of Ellson, a residential, asphalt mat road with open culverts on either side of it.

If, however the MAPC finds the requested zoning change of "LC" appropriate, Staff recommends the "LC" zoning be covered with the following conditions of PO #133:

1. Signage shall be per Sign Code for the "NR" district with the including no signs shall be allowed on the rear or sides of any buildings.
2. Parking lot lighting elements (i.e. fixtures, poles, and lamps, and etc.), with light poles, including base, limited to 24 feet in height, and reduced to 14 feet within 150 feet of residential zoning. All lighting shall be behind a 20-foot setback along the north and east sides. Exterior lighting shall be shielded to prevent light disbursement in a northly or eastern direction. .
3. A landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Landscaping shall be required prior to the issuance of any occupancy permit.
4. A screening wall that is between six (6) feet and eight (8) feet high of concrete/masonry shall be constructed along the north and east property lines. This solid wall shall be constructed of a pattern and a color that is consistent with the building walls, is of uniform construction and placed within a five (5) foot wall easement.
5. Building walls and roofs must have predominately earth-tone colors, with vivid materials limited to incidental accent, and must employ materials similar to surrounding residential areas. Architectural articulated steel creating texture, shapes and shadows is permitted on the exterior walls within the context as stated in this condition.
6. Dedicate an additional 10-feet of row
7. Provide shared access onto Central, with full movement on the existing west drive and restricting the existing east drive to right in – right out. If Ellson is to be used, full movement allowed and Ellson must be developed to City Standards for commercial use fro the length of the property along Ellson. Provide the City Traffic Engineer with the appropriate documents.
8. All utilities installed underground.
9. Trash receptacles shall be appropriately screened to hide them from ground view.
10. Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
11. Maximum building height of 35-feet
12. Prohibited uses on the "LC" lot include; asphalt or concrete plant, motion picture theaters, liquor stores, tavern and drinking establishments, vocational schools, recycling collection station (public), reverse vending machine, safety service, animal care limited and general, hotel, -motel, marine facility, outdoor recreational, night clubs, cemeteries, correctional placement residences, group homes, outdoor storage, drive through restaurants, convenience stores, service stations, vehicle repair limited, car wash, construction sales and service, and nurseries and garden centers.

MOTION: Approve, subject to staff comments and citing the findings in their report.

DUNLAP moved, **SUNQUIST** seconded the motion, and it carried (11-0).

MARNELL Bill, I think we may want to re-consider Item 10?

LONGNECKER My apologies to the MAPC. When this Item was presented for consideration as a consent case, I was speaking with a member of the audience in regards to their questions about another case, and the applicant's agent was in the hallway. We both missed this case being called out as a consent item. There are a few issues the agent would like to discuss with the MAPC in regards to the Protective Overlay, so we would request that the body take this off as a consent item.

MOTION: To reconsider Item #10.

MARNELL moved, **BISHOP** seconded the motion, and it carried (11-0).

DOUG KLASSEN, MKEC AGENT The church has more property than they need, so they are planning to attempt to sell the east 135 feet of the property and that is part of the reason for the zone change. The church is planning to stay in place and has no plans for future development of that particular piece of property where the church is currently located.

In reference to Condition #3 of the protective overlay, the requirement for 1.5 times the minimum ordinances requirement for landscaping along the sides of the site abutting residential zoning and the street side. We request property where the existing church is now located not have to supply that additional landscaping until such time that they would redevelop that property. In other words, they wouldn't be forced to upgrade the landscaping currently in place, if this zone change were to go through.

On Condition #4, the concrete/masonry wall requirement. Again, we would like to make certain that the property where the church is now located and plans to continue to be located, would not be required to install that masonry wall. We would also request that the condition be changed to solid screening instead of a masonry wall.

On Condition #6, the 10-foot right-of-way dedication initially we opposed. We would be agreeable to a contingent sidewalk utility easement dedication.

On Condition #7, the east drive would be right-in-right-out instead of full movement. We are not in agreement with Traffic Engineering with that condition. Part of the reason why is because we don't expect a high traffic user on the site next to the church. The church property of course would generate traffic on Sunday morning, and maybe a couple evenings. The total traffic generated off the whole site will be limited and should not warrant this condition.

MARNELL I have a question about your last statement, you weren't talking about the church; you were talking about the lot to the east?

KLASSEN This portion of the property to the east is the property that they intend to sell off, and there is a lot split pending. The existing entrance to the church is here, and this is the entrance Scott Logan, Traffic Engineer, is requesting be right-in, right-out. They would provide a shared access agreement between the church and that property.

MARNELL But your comment was that it wouldn't develop much traffic, and if you don't have a tenant for it, how do you know what it would generate?

KLASSEN That is a good question, and we do not have a tenant for it.

DUNLAP Wouldn't the proposed shared access coupled with an allowed entrance and exit on Ellson, where there is full movement at this controlled intersection, solve the same problem?

KLASSEN Right, full movement I think in the staff report he has indicated that full movement would be allowed on Ellson.

DUNLAP Wouldn't that serve your purposes to restrict your Central access to right-in, and then exit on Ellson which would allow full movement onto Central?

KLASSEN The church traffic could cross this and make that left turn. I suppose so.

DUNLAP That would limit the number of conflict points that Traffic Engineering is always worried about.

MITCHELL What is your responsibility for the paving of Ellson?

KLASSEN There is a requirement to provide a guarantee that would be paved to City standard at the time of development if this property intends to use that as an access point.

MITCHELL Would the assessment then also fall to the properties east of Ellson for half of the pavement cost?

KLASSEN I would have to defer to staff.

LOGAN On a situation like that we would have to look at the benefit district to the property owner to the east. Vicky Huang usually discusses these things and could provide the answer at a later date.

MITCHELL How far south that paving requirement as in this list of items extends, does extend only to the line of the property that is being rezoned or clear to the next intersection?

LOGAN It would have to go to the south property line.

MITCHELL Which is south of the drainage.

KLASSEN The south property line is the south line of the drainage.

MCKAY You said you want to put a buffer in lieu of a fence? What kind of buffer are you talking about?

KLASSEN Possibly berms with evergreen type of plantings at 6-8 foot centers.

MCKAY What does staff think about that in lieu of?

LONGNECKER A combination of landscaping and a berm can act as solid screening if you get the kind of density that we would be looking for. Typically when we look at evergreens as landscaping screening we are looking at a minimum of 15-foot centers and a five-foot high minimum height. We are looking to get something in there that within a year would provide the same effect as solid screening.

MCKAY Do they have enough land to do that? Or do they have to dedicate more land?

LONGNECKER I am not sure what type of berm they would have, we would have to work that out. We would prefer a solid screening wooden fence or masonry wall.

MCKAY I am not opposed to the other type of barrier but my question is there enough room to put a berm in with trees in relationship because I know it only takes five-foot for an easement for a fence, but you can't do what you are talking about in regards to the berm and landscaping with in the five-foot easement.

KLASSEN I see your point, and I would doubt that there would be enough room. We would still like to explore the option to do the landscape buffer.

MCKAY Are you going to offer some kind of guidelines.

KLASSEN Some kind of guidelines for the solid screening, like a berm height?

MCKAY You are saying that you will work it out with staff, and then the staff will approve it?

KLASSEN Right.

HENTZEN Point out what area you are talking about with this fence or berm.

KLASSEN The area that they intend to sell is from here to the east. It would extend all the way down. But 135 feet of this is drainage.

BISHOP Where would the wall need to be if one is required?

KLASSEN Either on the north side of the drainage or the south side of the drainage.

LONGNECKER The wall itself would be located on this side of the drainage reserve. The 135-foot floodway is going to provide a pretty effective barrier in regards to any spillover from the commercial development that they are talking about.

BISHOP So that is the only place a wall would be requested along that south line not the east?

LONGNECKER We are also asking for the east because we don't know how this is going to be orientated over here; what type of business this will be. We would want screening on the east as well.

BISHOP Because we don't know what the use is, a masonry wall could be desirable for some uses and not quite so desirable for other uses. Maybe an administrative adjustment could be used, depending on the usage.

LONGNECKER We would request a site plan at the time of redevelopment to see what we have there. Staff intent was to rezone this whole property, to provide at some time a unified development site.

BISHOP Could we make that a recommendation that be something Subdivision looks at?

MCKAY Show me where you want that wall.

LONGNECKER On this side; on the north side of the drainage easement.

MCKAY The west side of Ellson, you are asking for it also?

LONGNECKER For this side where it abuts Ellson.

MCKAY I can understand where you want it in certain places. The property to the west is commercial so it is not necessary there. On the south is the floodway, which is a natural barrier to begin with. Now that floodway drainage going to the northwest, is that a drainage right-of-way also?

LONGNECKER This is a reserve here.

MCKAY So why do we need to have one at all except on Ellson Street that abuts onto residential, and if people come in and get that rezoned, they may not need it there either?

LONGNECKER It is being rezoned right now.

MCKAY I am saying the only requirement now would be to buffer the west side of Ellson, because that is residential, and if they come in with a different zoning east of there on the other side Ellson, that requirement could be dropped.

LONGNECKER You have spaces of buffer there, but you don't have any screening that is an open space. From the church down through here to the duplex is open area.

MCKAY How high are the bushes and stuff in there?

LONGNECKER There aren't any, it's a clear area.

MARNELL I think we need to get this cleaned up. They already have an application for a lot split to carve out that one little corner. They are picking up a lot of requirements they don't need to, and they are making this more complex. I would think the best thing would be to defer this item and come back with the zoning on the piece that is going to be lot split out.

KLASSEN That was our intention in the first place; we were discouraged by staff to do that. That would be our preference.

MARNELL Most of the land involved is not that lot because of the drainage space. We got backed into a corner.

MCKAY The only thing, if the church is single-family now, someone will have to screen between the church and this piece of property.

MARNELL They were going to do that anyway.

KLASSEN No, that was not the requirement.

BISHOP If they did that, would that mean resubmitting an application?

LONGNECKER No.

MITCHELL I still want to see the effect that this plat will have on the paving of Ellson, and the benefit district which may require the people on the east side of Ellson to pay for half of that street.

MOTION: To defer for 30 days.

HERNANDEZ moved, **MITCHELL** seconded the motion, and it carried (11-0).

11. **Case No.: CON2004-01** – Grant Township c/o Jack Perrin, Trustee (owner); Duit Construction c/o Ben Koerner & Mark Willy (applicant) Request Conditional Use to permit a temporary concrete plant for I-135 reconstruction on property zoned "RR" Rural Residential on property described as;

Lot 1, Block A, New Life Christian Church Addition, Sedgwick County, Kansas, EXCEPT, that portion platted as Ellson Court Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located At the northwest corner of 101st Street North and Hydraulic.

BACKGROUND: The applicant is requesting a Conditional Use to allow temporary concrete plant for the reconstruction of I-135 on a 9-acre unplatted tract located at the northwest corner of 101st Street North and Hydraulic. The subject property is zoned "RR" Rural Residential and is used as the Grant Township maintenance yard. The applicant proposes to use the subject property for a temporary concrete plant, material storage, office trailers for the highway reconstruction project. The applicant indicates that the highway reconstruction project will be completed by June 17, 2005.

Section III-D.6.d of the Unified Zoning Code (attached) enumerates the conditions under which a temporary concrete plant is permitted by right in the "RR" Rural Residential zoning district. If all of these conditions cannot be met, then approval of a Conditional Use is required to permit a temporary concrete plant. Since the proposed temporary concrete plant would be located closer than 1,000 feet from the nearest residence, approval of the requested Conditional Use is required to permit a temporary concrete plant on the subject property.

The surrounding area is characterized by large-lot rural residential development. All of the adjacent properties are zoned "RR" Rural Residential. Large-lot rural residential uses are located east and south of the subject property. A cemetery is located north of the subject property. The property located west of the subject property is used for agriculture.

The applicant submitted the attached site plan illustrating the proposed use of the subject property. The site plan indicates that the temporary concrete plant would be located in the northern portion of the subject property and would be screened from surrounding residences by topsoil berms. Material stockpiles and a truck wash would be located west of the temporary concrete plant. Office trailers would be located in the southern portion of the subject property. Concrete truck traffic would enter the site from 101st Street North and exit from the site onto Hydraulic.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Cemetery
SOUTH:	"RR"	Single family
EAST:	"RR"	Single family
WEST:	"RR"	Agriculture

PUBLIC SERVICES: The subject property has access to 101st Street North, a paved two-lane arterial street, and Hydraulic, an unpaved township road. The property is served with rural water and on-site sanitary sewer. No impacts on public services are anticipated due to the temporary nature of the request.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development and identifies the area immediately south of the subject property as a "Small City Growth Area." The Industrial Locational Guidelines of the Comprehensive Plan indicate that industrial areas should be located in close proximity to support services and away from planned residential areas. Due to the temporary nature of the request, the proposed concrete plant meets the intent of these policies.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that a Conditional Use for a temporary concrete plant be APPROVED subject to the following conditions:

1. The temporary concrete plant shall comply with state air pollution regulations and shall obtain a permit from the Kansas Department of Health and Environment.
2. No contaminated soils may be stockpiled on the site, used for remediation or used in the operation of the temporary concrete plant.
3. All fuel tanks shall include fuel/spill containment systems approved by Sedgwick County Code Enforcement.
4. Any spills of materials capable of contaminating groundwater shall be cleaned up immediately to the satisfaction of Sedgwick County Code Enforcement.
5. The truck washing facility shall utilize a wastewater containment system approved by Sedgwick County Code Enforcement.
6. No waste, production materials, discarded equipment, or other such items shall be buried on site.
7. All equipment and materials utilized in operation of the temporary concrete plant shall be removed from the site and the site returned to its original condition, or better, within 30 days following completion of the highway reconstruction project, but no later than July 17, 2005.
8. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
9. The site shall be developed in general conformance with the approved site plan.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by large-lot rural residential development. All of the adjacent properties are zoned "RR" Rural Residential. Given the existence of the township maintenance yard on the property and the temporary nature of the proposed concrete plant, the request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could continue to be used as a non-conforming maintenance yard that was established prior to the existence of zoning in the area. The proposed use is temporary and is not significantly more intense than a maintenance yard or other agricultural-related uses permitted in the "RR" district, and therefore is a suitable use of the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No detrimental affects on nearby properties are anticipated due to the temporary existence of the concrete plant.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Sedgwick County Development Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development and identifies the area immediately south of the subject property as a "Small City Growth Area." The Industrial Locational Guidelines of the Comprehensive Plan indicate that industrial areas should be located in close proximity to support services and away from planned residential areas. Due to the temporary nature of the request, the proposed concrete plant meets the intent of these policies.
5. Impact of the proposed development on community facilities: No impact on community facilities is anticipated.

DUNLAP The condition of Hydraulic, north of 101st, is there a plan to improve that? Because this is an awful lot of truck traffic on a dirt road.

KNEBEL No, there is no plan for improvement. I assume it will be maintained by the Township.

DUNLAP The Township will have to maintain that for the highway construction?

KNEBEL I don't know if there is an arrangement in the lease or not.

MTICHELL What was the reason for the layout of the traffic pattern?

ALLEN FERRINGTON, DUIT CONSTRUCTION Right now there is limited space on 101st Street because the space between the water tower and the first maintenance building allows only about a 30-foot wide entrance.

MITCHELL What about these trees, and the maintenance of Hydraulic?

FERRINGTON The Township said they didn't care if we had to take them out. The maintenance of Hydraulic, we wouldn't expect the County to maintain that for us. We will have a motor grader and water trucks out there.

MITCHELL So you will do dust control down on Hydraulic?

FERRINGTON Yes, we will do water trucks. The project completion date is November 19th of this year. This is a two-phase project.

DUNLAP You are not going to restrict access on 101st to I-135 during this process are you?

FERRINGTON Not completely.

CALVIN BAHR, 10356 N. Hydraulic, Valley Center KS 67147 I live east of the proposed project. There are not many neighbors, but I have several concerns. Unless I missed the meeting, the applicant and the residents haven't talked about the project. I have asked the Township to provide me some details, and they mentioned they were going to get some funding and that this was a positive economic reason for doing this. I am against the extra noise and traffic. I have some young kids, and despite me being around, they will be attracted to this operation. What about the dust control? I wonder if there are other areas for this type of activity. There is farmland that sits out here. I would prefer the access would be to 101st versus the heavy traffic on the dirt road. I know the Township is not worried about the trees, but I like the trees and that is why I live out in the rural area.

EARL STAFFORD, 10155 N. Hydraulic, Valley Center, KS 67147 Basically my house sits right there, and my son is asthmatic. I am opposed to this proposal.

FERRINGTON The water is why we want to situate ourselves here. We will need 85,000 gallons per day on our large production days. The Township will get \$8,000, and the additional cleanup of their old stock piles of asphalt, and concrete rubble, etc. We will run water trucks. We will try to control the dust.

BARFIELD Have you tried to talk to the neighbors?

FERRINGTON No, we have not.

BARFIELD You will have no need to occupy this property beyond Jan. 2004?

FERRINGTON Correct.

HENTZEN What hours of operation do you plan?

FERRINGTON Typical construction hours are 7 a.m. to 6 p.m.

MCKAY According to this diagram, the trees that you are talking about tearing out of here, it looks like it is the backside of it. You wouldn't be opposed if we made you stay on 101st?

FERRINGTON No.

HERNANDEZ How many days will you be in operation?

FERRINGTON About 24 days is all the plant will be in operation, 16 days all day long and then some ½ days.

MOTION: Approve the request, subject to the conditions recommended by staff except that all access shall be limited to 101st Street and a revised site plan shall be required.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (11-0).

12. **Case No.: ZON2004-01** Sheldon J. and Janice M. Kamen Revocable Trusts Request Zone change from "B" Multi-family Residential and "GO" General Office to "GC" General Commercial on property described as;

Lots 13, 15, 17, and 19 on Topeka Avenue, J.P. Hilton's Addition, an Addition to Wichita, Sedgwick County, Kansas.
Generally located At the northeast corner of Elm and Topeka.

BACKGROUND: The applicant is requesting to rezone a 0.38-acre tract from "B" Multi-family Residential and "GO" General Office to "GC" General Commercial. The property is located on the northeast corner of Topeka and Elm. The application area is mostly vacant except for a small existing building located on the "GO" tract.

No specific plans are known for the site, although the applicant owns the adjacent half-block located east of the application area facing Emporia with an existing bakery distribution/retail outlet and a vacant industrial building. This adjacent half-block is zoned "LI" Limited Industrial. The applicant has indicated they would consider using the application area to support the continued use of the industrial property located to the east. The applicant also owns the two lots to the north of the zoning request, and these two lots are already zoned "GC" and used as parking for the bakery distribution facility.

Most of the lots north of the applicant's "GC" lots are zoned "B", with a sliver of "LC" Limited Commercial near the corner of Topeka and Pine. Two houses and two brick apartment houses are located to the north; two lots are vacant. The property to the west is zoned "B" except the corner lot on Elm that is "LC" has several houses and two brick apartment buildings. The property south of Elm also has several apartment buildings, and is zoned mostly "B" except two lots zoned "GO". Via Christi is located two blocks to

the north and a new Via Christi medical office is being constructed on the next block to the north. Metro-Midtown High School is located on the next block to the east.

The C.O.R.E. Centercity Organized Revitalization Effort prepared a development plan for the Center City Neighborhood that has been adopted by the governing bodies and identified the proposed rezoning area as part of the nine-block Phase I area for new development. The Center City Neighborhood Future Lands Use Plan depicts the application area as appropriate for residential use. The larger nine-block area is also shown as appropriate for residential, open space and school use. However, the master plan for the new development of the nine-block area showed the application area for mixed use with neighborhood serving retail/office/services on the ground floor level and apartments on the two upper stories.

CASE HISTORY: The property is part of J. P. Hilton's Addition, recorded January 1, 1870 Plat Book H1, Page 8. This plat was recorded on the first day plats were recorded in Sedgwick County.

ADJACENT ZONING AND LAND USE:

NORTH: "GC"; "GO", "B" Residences, apartments, vacant
SOUTH: "B"; "GO" Apartments
EAST: "LI" Vacant, bakery distribution store/retail outlet
WEST: "B"; "LC" Residences, apartments, vacant

PUBLIC SERVICES: The site is located on the east side of Topeka, a three-lane one-way urban collector at a mid-mile location. Elm is a local street.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as appropriate for "office" and "commercial".

Wichita City Council adopted the Center City Neighborhood plan on February 8, 2000 and Sedgwick County Board of Commissioners adopted it on February 9, 2000. The plan showed the proposed rezoning tract in the heart of the nine-block Phase I Target Area to be anchored by a Village Square Park located on the northern two-thirds of the block where this zoning request is located. The southern portion of the block (including the zoning request) was to be residential. All of the Phase I area was to be new construction except for Metro Mid-town High School, which would remain and be the focal point of the Village Square Park. An invitation to developers was requested by C.O.R.E. in October 2003. The master plan used for this solicitation showed a three-story complex with neighborhood services (neighborhood retail, offices, etc) on the ground level facing the park and apartments on the upper two stories.

RECOMMENDATION: The vision of the C.O.R.E. is to demolish the existing bakery buildings, houses and apartments on the block for new construction of a three-story ground level retail/upper two stories of apartments on the southern third of the block. The northern two-thirds would be the Village Square Park. This is similar to the approved neighborhood concept and the one being used for soliciting a developer currently. The new construction is to be patterned after the architectural character of the Metro Mid-town High School, with brick/stone materials, zero-lot setbacks along sidewalks and interconnected walkways through the Village Square Park. The vision was to have the same general building style and use on the block to the north of Pine, however, this block is currently being redeveloped with an office use by Via Christi instead. At this time, it is unknown if the plan will be revised because of the new Via Christi office.

The applicant's request would give the same "GC" zoning to all the applicant's property from Elm to the mid-block on the east side of Topeka. It would make the land available for commercial or residential use, but also for industrial use and would allow more intensive commercial uses such as vehicle and equipment sales, outdoor, as well as reduce the restrictions of the "LC" district on outdoor storage and display. This is contrary to the C.O.R.E. vision of removing the industrial uses from the area and encouraging redevelopment of a vital residential neighborhood with neighborhood serving retail and service uses.

Based on this information and the information available prior to the public hearing, staff recommends the request be DENIED FOR "GC" General Commercial and instead be APPROVED for "LC" Limited Commercial.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The property to the east is zoned mostly industrial; the property to the north, south and west is zoned mostly "B" Multi-family Residential, with occasional "GO" General Office, "LC" Limited Commercial and "GC" General Commercial lots scattered within the "B" zoning. More specifically, an existing bakery distribution/retail outlet and a vacant industrial building are located to the east of the proposed rezoning; this adjacent half-block is zoned "LI" Limited Industrial. Two lots to the north of rezoning request are already zoned "GC" and used as parking for the bakery distribution facility. The rest of the lots north of the applicant's "GC" lots are zoned "B", with a sliver of "LC" Limited Commercial near the corner of Topeka and Pine. Two houses and two brick apartment houses are located to the north; two lots are vacant. The property to the west is zoned "B" except the corner lot on Elm that is "LC" has several houses and two brick apartment buildings. The property south of Elm also has several apartment buildings, and is zoned mostly "B" except two lots zoned "GO". Via Christi is located two blocks to the north and a new Via Christi medical office is being constructed on the next block to the north. Metro-Midtown High School is located on the next block to the east.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property would not likely be redeveloped for residential use unless it is part of the more comprehensive Center City Neighborhood revitalization efforts. The existing building on the "GO" tract could be used as an office.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: "GC" allows more intensive uses, including but not limited to: recreation and entertainment, outdoor; recreational vehicle campground; vehicle and equipment sales, outdoor; vehicle storage, warehouse, self-service storage as a by-right use; manufacturing, limited as a by-right use; manufacturing, general; vehicle storage yard; warehousing; welding and machine shop; and wholesale and business services. Also, "GC" lacks the more stringent outdoor storage and outdoor display regulations of "LC". These more intensive uses and outdoor storage and display activities would be detrimental to continued residential use nearby.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Rezoning to "LC" would be in alignment with the proposed use of the property for mixed use retail/office and residential use as shown on the master plan developed to implement the Center City Neighborhood Plan, although the Center City Neighborhood Plan showed the area as residential. Adding the more intensive uses allowed in "GC" but not permitted in "LC" and removing outdoor storage and display limitations is contrary to the redevelopment vision of the Center City Neighborhood Plan and would dampen the potential to revitalize the area, particularly as a desirable inner city residential neighborhood.
5. Impact of the proposed development on community facilities: No significant impacts are identified.

BARFIELD This information from the DAB board, is there a moratorium for this area?

GOLTRY No, there is not a moratorium.

HERNANDEZ Do you have a south view? Would that be the Mid-Town School?

GOLTRY We are only a block off Central (pointing to the slide of property south of the application area). There are apartment buildings, then an office building in the middle of that block to the south. Metro Mid-town is located a block to the northeast.

DUNLAP Do you know of any specific redevelopment plans under way that will be developing in this area right now?

GOLTRY Yes, I believe there are plans for redevelopment, but I don't know at what stage they are currently.

DUNLAP How close to this property is that?

GOLTRY Very close; this is the target area for redevelopment.

DUNLAP Where is the Judge Wall house from here?

GOLTRY Two blocks to the east.

MITCHELL Is there anyone here to speak for the CORE today?

SHELDON KAMEN Last night we discussed they don't want trucks, cars, or clutter. When we took over the Wonder Bread area, the C.O.R.E. Plan is that this building (referring to the bakery building) should be taken down, and this should be a green space. I am a recycler, and I wouldn't even think of tearing this down. The bakery stopped baking in this building 13 years ago. Basically, it is a distribution center and, so far, I am the only one to buy it. Part of the building is facing south, and that is not being used. The middle part of the building is half way used by Wonder Bread, so you have a half empty building here. We fixed this building up, and cleaned up the outside and painted part of it. This area on the top here (pointing to the northern part of the application area on the zoning map) is the part I want to change, which is residential...which there is no demand for residential in this area, although that is the CORE plan. Which, if they get enough city money they can do that. The other part is "GO" General Office, which there is a slim chance of that happening. Now, St. Francis Hospital is building a new hospital across the street, and I feel this building will be worth something. I tried to come up with a plan that would be "LC" Limited Commercial around this building, and make it a neighborhood type business and medical business because there will be some medical business in this area. I agree that "GC" General Commercial should not be here.

On the last page of the staff report is the C.O.R.E. plan. I believe this is an unattainable plan. I think housing is wonderful and housing should be developed, but I don't think they should do it at the expense of those who want to sink their private money into a development, and therefore the city will make taxes and so forth. This is not a big money-making deal for me; there is not much development in this area, but the building is there.

BARFIELD Do you own the property west of the bakery?

KAMEN Yes, I own three lots there.

BARFIELD You don't have any plans to develop or what do you plan on developing here?

KAMEN I don't think there will be anything coming up before the hospital is finished, but I know the zoning that is there now can't be used. The only thing I could do with the office is make a parking lot out of that. The residential is gone. I think if this area is developed, there has to be some commercial in there, just like the bread store is in there now.

TONY RANGEL, %Law Kingdon, Inc., 345 Riverview, Ste. 200, Wichita, KS 67203 C.O.R.E. Vice President We have been working on a community development plan in this neighborhood for a number of years; a plan that was adopted by this MAPC, BOCC, and WCC. We have a partnership with those organizations, as well as the core of the organization, or the 10 largest congregations in the downtown area, as well as Via Christi and USD259. We began our effort by looking at a larger neighborhood, a 25-block area to revitalize into a urban housing district. We identified a seven and one-half block area for revitalizing from Waco to Santa Fe and from Ninth Street south to Second Street.

As a representative of C.O.R.E., our request would be to deny the rezoning request, and leave the zoning as is as "GO" General Office and residential. It would be better served for the neighborhood, and for the future plans that it remain in that zoning at this time. Changing from General Commercial to Limited Commercial would still be contrary to the CORE plan. There are currently residential uses on the north, west and south sides of the property, as well as adjacent to the east side of the bakery, and those are occupied residential uses. We have been in discussion with Continental Bakery, trying to maintain the store within the development area and working to make that happen within the area around the park. The park is a central theme for the neighborhood area that you saw on the plan. Concerning Via Christi, we have had discussions with them about having a family practice clinic in the area, and that has always been our plan; now it resolved to be at the corner of Waco and Topeka. The Judge Wall house is part of the C.O.R.E. plan as well, and it is our intention to have similar housing developed in the vicinity of the Judge Wall house. We did try to purchase the bakery and our final attempt was a cash offer, but we were not successful with that. Just within the last month, we have been able to package our developer proposal request and get it out on the street, and are currently trying to draw the interest of a developer and try and move forward from the point where we are at now.

BARFIELD You have a partnership with 10 of the largest churches? Who would be the lead church?

RANGEL Right now the president organization is the senior minister at Central Church of Christ, so I would say they would be. But the largest donor has been First United Methodist.

BARFIELD The proposal you have looking for developers, does that include this piece of property?

RANGEL Yes it does.

BARFIELD What segment of population are you attempting to address?

RANGEL We are looking to develop not only single-family but multi-family, and duplex style housing with a range of income housing. The mission of C.O.R.E. is to foster residential development in the center city that is inclusive, diverse and cosmopolitan.

DUNLAP How long has C.O.R.E. been in existence?

RANGEL Approximately six years and we have been incorporated for the last three years.

HERNANDEZ What area is C.O.R.E. bounded by?

RANGEL Ninth Street on the North, Second on the South, Santa Fe on the east and Waco on the west.

MARNELL What is the dollar estimate on this plan?

RANGEL Our current dollar estimate is \$58 million. That would be development as well as infrastructure improvements.

MARNELL Is there an existing source for that money? Do you have the \$58 million?

RANGEL No.

MARNELL Because it looks like this gentlemen's property is right in the middle of this, and it is a free market place for people buying and selling property.

RANGEL Once we have a developer on board, we would follow the lead of that organization.

MARNELL You anticipate that you would have some form of condemnation power?

RANGEL We have had discussion with the city about that opportunity and obviously that is not something that the WCC really is agreeable to.

MCKAY How much land in this plan does C.O.R.E. own?

RANGEL We own two lots, 617 & 619 N. Topeka.

BARFIELD Those are the two properties, you are in the process of remodeling and restoring.

RANGEL That is correct.

BISHOP I assume that there was work done looking at the need for residential housing in that area to service Via Christi.

RANGEL There have been two market surveys done. We found that some of the larger employers, the churches and the hospitals, that yes there is a desire from a certain number of the employers for their employees to live near their employment base so that they could reduce transportation issues or costs.

KAMEN I don't want it thought that I have ill feeling with C.O.R.E.; that is not so. I think there needs to be housing in that area. I think the hospital that is going in there, and they will need to change their plans. I think neighborhood businesses should be in there as well.

MITCHELL Did I hear you say you would be satisfied with Limited Commercial?

KAMEN Yes.

BARFIELD I want to point out that there are several half-way houses in that area, the Dodge House and a few others. Businesses have been reluctant to go into area with that as a neighbor.

KAMEN I supported half-way houses when I was on the Council.

HENTZEN This is not part of or connected to the Mid-Town Neighborhood Plan?

GOLTRY No, this is part of the Center City Neighborhood Plan that was done in 2000.

MOTION: To approve the zone change per the recommendation of the staff as LC zoning.

MITCHELL moved, **HERNANDEZ** seconded the motion, and it carried (10-1) **BISHOP** opposed.

13. **Case No.: CON2004-02** Edward & Brenda Gouge (owner/applicants) Request Conditional Use to permit an accessory apartment above a proposed detached garage on property zoned "SF-5" Single-family Residential on property described as;

The south 96 feet of Lot 15, Block 2, Westborough Place Third Addition, Wichita, Sedgwick County, Kansas Generally located At the northeast corner of 15th Street North and Womer.

BACKGROUND: The applicants are requesting a Conditional Use to allow an accessory apartment on a 0.41-acre platted lot zoned "SF-5" Single Family and located at the northeast corner of 15th Street North and Womer at 1602 N. Womer. The applicants propose to use the second story of the detached garage as an accessory apartment. The applicants indicate that the apartment would initially be occupied by their son, but that they would like the flexibility to rent it to non-family members in the future.

The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single Family and are developed with single family residences.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the "SF-5" Single Family zoning district. Section III-D.6.a. of the Unified Zoning Code (UZY) has the following requirements for an accessory apartment:

- (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (4) water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The applicant submitted the attached site plan illustrating the location of the detached garage with the proposed accessory apartment to be located on the second floor. The accessory apartment will be located behind the house and will have a separate street access to 15th Street North. The applicant submitted the attached floor plan and elevation drawing illustrating the proposed layout and construction of the accessory apartment and detached garage. The elevation drawing illustrates a siding material that is incompatible with the main dwelling. The main dwelling is sided entirely with brick; therefore, in order to comply with Section III-D.6.a.(2) of the UZY, planning staff recommends that the accessory apartment have at least some brick siding such as a wainscot of brick that matches the house. Otherwise, the MAPC will need to recommend that a waiver of the requirement be granted by the City Council.

CASE HISTORY: The property is platted as part of Lot 15, Block 2, Third Westborough Place Addition, which was recorded June 17, 1950.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-family residences
SOUTH: "SF-5" Single-family residences
EAST: "SF-5" Single-family residences
WEST: "SF-5" Single-family residences

PUBLIC SERVICES: The subject property has access to both 15th Street North and Womer, which are paved residential streets. The subject property is connected to public water and sewer. No impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "low density residential" development. The policies of the Unified Zoning Code allow one accessory apartment to be

associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms with adopted policies.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. Within 60 days of approval of the Conditional Use, the applicant shall submit for approval by the Planning Director a revised elevation drawing that provides for a wainscot of brick siding that matches the brick on the main dwelling. The site shall be developed in general conformance with the approved elevation drawing.
5. Construction of improvements shall be completed within one year of approval of the Conditional Use.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single Family and are developed with single family residences. Given the size of the subject property, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "SF-5" provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the large size of the lot. The placement of the accessory apartment within the garage generously meets zoning setback requirements.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "SF-5". This application as recommended for approval complies with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

BARFIELD This is going to include a workshop in the bottom level?

KNEBEL That is correct. The accessory apartment would be on the second floor.

ED GOUGE, applicant I know there are neighbors opposing this. Most of the opposition is coming outside of the 200 feet area that I had to notify the neighbors of. I agreed at last night's DAB meeting that on the east side of the proposed building to not put any windows over looking his property. As far as the claimed clutter of extra cars, and the decline and the appearance of the property, the building we are proposing to build has a two-car garage with a good sized drive-way, and this will eliminate extra cars being parked in front of our house. At present, we have four cars, one of which is parked on the street, and we plan to eliminate the parking on the street, so this would cut down on the clutter of cars. To address the decline in the appearance, the building can never be sold separate from the main house. At least 1/3 of the building is being built for regular everyday use of the property owner who lives in the main house. This is not like regular rental where the property owner lives across town or in another city or state. The property owner who lives in the main house will still be maintaining the up keep on the building and all of the property. It is our intent to make our property more attractive and more valuable, and not take away from the appearance. We are just as concerned about our neighborhood as all of our neighbor's are. I know last night at the meeting people asked if there are any other two-story structures within the area, and probably 400 feet southeast of us is a big two-story storage building, and it does not tie into the neighborhood surroundings at all. I have agreed to put the brick on to tie into neighborhood surroundings, and I have agreed not to put the windows on the one side of the neighbor's.

HERNANDEZ Are you building this for you son specifically?

GOUGE Right now it is just for my son. My son is 19, and he wants more independence, and also I am building it mainly for family, but I would like the option to be open because I have a mother-in-law that lives with my wife's grandmother and when she passes away her plans are to move to Wichita, and she has expressed interest in living there.

HERNANDEZ Will your son have loud parties there?

GOUGE No, I will have more control over him on my own property.

KNEBEL I know there were a number of protest petition turned in at the DAB meeting last night and faxed into the office, and in order for those to be valid, they will need to be mailed or hand delivered to the City Clerk's office.

VERNON F. VOGEL, 1615 N. Clarence, Wichita, KS 67203, I am within the 200 feet and received the notification letter. I have lived in this area since it was developed. There are a lot of retired people that live in this area, and the houses are about \$100,000. The houses don't stay on the market long when they are put up for sale. I am concerned about this request. Usually on things like this there are other similar situations in the area. I don't know of any other properties where we are going to build a two-car garage and storage spaces or an outside entrance to the property. If this is approved, does this mean that every corner lot can do the same thing with the same use? If this is approved, how about the next one? I would be obligated to tell the next client I sold the property to the highest and best use as a potential income. What happens when this property is sold? They can use this as an advantage and make additional income. I don't want to look at this in my backyard.

JERRY T. PRICHARD, 1607 N. Clarence, Wichita, KS 67203, This does not fit the character of the neighborhood. I believe there were covenants to the property when this area was developed, at some point and time. I am opposed to this application, and I believe this will affect our neighborhood negatively. I am Co-President of the Indian Hills Riverbend Association. There are a number of neighbors who don't want this in our neighborhood. I think the applicant said that he has other rental property, and he could rent this to anybody. I could put a different building in there without a kitchen was the statement made by the applicant. This will affect the neighborhood. I think the state statute should be changed in regards to the notification area.

GOUGE I did say that I could build the same building, but I don't know if I will or not if it is not approved for the use I need, because a third of this is for my own personal use anyway, and I can still use the upstairs for storage. This will increase and enhance the value of our property because I will be tearing down a building that is there now, and replacing with a new structure.

HENTZEN Where will you put the driveway if this is approved? Are you going to take down any trees?

GOUGE I have two huge trees in the middle of my backyard, and I will have to trim some limbs up. I will be taking out a few evergreens.

MOTION: To deny the applicant.

BARFIELD moved.

MOTION dies for lack of second.

MOTION: Approve, subject to staff comments and adding a condition that there will be no windows on the east wall of the accessory apartment.

MARNELL moved, **HERNANDEZ** seconded the motion.

BARFIELD All of the accessory apartments usually deal with needs to satisfy elderly, disabled, and this doesn't fit any of that criteria. I feel this is inappropriate use of this property.

BISHOP I think we are going to get more applications like this in the future. I think there are some architectural guidelines in place now.

MCKAY If there are a number of petitions, it will probably be more than 20%, so it has to be approved by 3/4 of the City Council.

MOTION CARRIED: 9-2 **MITCHELL** and **BARFIELD** opposed.

14. Other matters/adjournment.

SCHLEGEL You will be briefed at the next MAPC meeting on the Mid-Town Neighborhood Plan and a public hearing will be set at that meeting.

The Metropolitan Area Planning Department informally adjourned at 5:14 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)